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Government, Military and Veterans Affairs Committee
January 23, 2014

[LB661 LB662 LB663]

The Committee on Government, Military and Veterans Affairs met at 1:30 p.m. on Thursday, January 23, 2014, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB661, LB662, and LB663. Senators present: Bill Avery, Chairperson; John Murante, Vice Chairperson; Dave Bloomfield; Tommy Garrett; Russ Karpisek; Jim Scheer; and Norm Wallman. Senators absent: Scott Lautenbaugh.

SENATOR AVERY: Welcome to the Government, Military and Veterans Affairs Committee. This is our second hearing of this session. We have what I call Senator Krist day today since we have three bills that we'll be taking up in the order as they are presented on the agenda outside the room. LB661, LB662, and LB663, all dealing with some form of election law. Before we get started with that, I'm going to introduce the members of the committee and also review some of our procedures. Starting on my right over here, our newest member of the Legislature and of this committee, Senator Tommy Garrett from Bellevue, replacing the recently resigned Senator Scott Price. Next to him is Senator Dave Bloomfield from Hoskins. Next to him is not present.

SENATOR BLOOMFIELD: He's not that small, Bill. You'd have known if he was there.

SENATOR AVERY: I would notice, wouldn't I? Senator Lautenbaugh from Omaha will probably be joining us in a few minutes. Next to him is our new Vice Chair, Senator John Murante from Gretna. To my immediate right is Christy Abraham, the legal counsel for the committee. I am Bill Avery from District 28 here in Lincoln, Chair of the committee. And next to me on my left is Senator Russ Karpisek from Wilber. Next to him is Senator Norm Wallman from Cortland. And then Jim Scheer from Norfolk. Sherry Shaffer is on the end down there. She is the committee clerk. She makes sure that things run smoothly. If you are here and plan to testify on behalf of any of these bills, for or against, we ask that you fill out this green form, provide the information requested, and try to print it as clearly as you can. And when you arrive at the table to testify, we want you to spell your name and give this green sheet to Sherry so she can enter it into the record. We have another sign-in sheet for those of you who have a position on any of these bills, for or against, but do not wish to testify. You can fill out this and they are available at the tables--I think both tables--at the entrance to the room. The bills will be taken up in the order that I just read. And if you are familiar with how we run these hearings, the introducer gets to speak first, followed by proponents, who are then followed by the opponents, and then neutral testimony. Closing remarks are reserved for the senator introducing the bill. Listen carefully to what is stated in testimony prior to yours so that you do not repeat the same things that have been already said. Please also cooperate with us on the light system. We have a green light. That is where it gives you four minutes to finish your testimony. That's followed by an amber light which is one minute. After the amber light goes off, a red light comes on. You should be finished with

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your testimony by that time. If you have a cell phone and it is on, we ask that you put it either on silent, turn it off, or put it on something that does not make noise. And that's true for any electronic devices that you might have in here. We also ask that you not demonstrate approval or disapproval of any of the testimony. This is not a circus. It is a serious hearing. And we take seriously our obligation to open these hearings to the public until everybody has had their say. And we respect that and we want you to respect the process. If you have a prepared statement or any material that you would like for us to see, you will need 12 copies of that. If you don't have 12 copies, we do have an intern who will help you with that, Colton Wolinski. Is that correct? Where is he? There he is. You didn't look like the last one. I thought, well, that's not him. Anyway, he will help you get your copies if you don't have them and distribute them to us. With that, I think we've covered everything. We'll now open the hearing with LB661. Senator Krist, take over. [LB661]

SENATOR KRIST: (Exhibit 1) Thank you, Senator Avery. And thanks for allowing me to testify, committee members. I appreciate the opportunity. Senator Avery called it Krist day. More appropriately, I think, this is Secretary of State John Gale's day. He has done a tremendous amount of work over the past year traveling around the state and bringing us these pieces of legislation. I think they're interwoven to some extent but they are standalones. So I ask you within the next hour or so--I'm hoping it's only an hour or so--that we could take a look at them independently. And then, of course, it's up to the committee to decide what to do with them after that. I had the privilege of talking to Secretary Gale more than four months ago--about five months ago--and he told me that he would like me to carry these. And again, I consider it an honor. He's done so much for the state and for encouraging the state to get out and vote and participate in the democratic process. With that, good afternoon, members of the Government Affairs Committee and Senator Avery. For the record, my name is Bob Krist, B-o-b K-r-i-s-t. I represent the 10th Legislative District in northwest Omaha. That includes north-central portion of Douglas County and includes the city of Bennington. I appear before you today in introduction and support of LB661, a bill that I introduced at the request of Nebraska Secretary of State John Gale. LB661 consists of three components to provide additional opportunities for citizens of Nebraska to register and vote while increasing the accuracy and enhancing the maintenance of the voter registration database. Section 3 of the bill requires the development of an on-line registration system that allows prospective voters to complete a voter registration through a Secretary of State Web site. The proposed system that you'll look at will be limited to those who have a valid driver's license or a state identification card. This limitation is necessary as the applicant agrees to allow the signatures from the Department of Motor Vehicles' records, DMV, for voter registration purposes. Senator Avery will recall and I think Senator Karpisek was here at the time, when Senator Giese brought to us a bill that tried to tie these things together from a DMV database unsuccessfully at the time technology would not allow us to do what we...what he envisioned that we do. So some shout out to Senator Giese for actually bringing some of this to us from the very beginning. Section 4 of the

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bill requires the development of a paperless registration system for those voter registration applicants taken at DMV pursuant to National Voter Registration Act. The proposed system would allow DMV to electronically transmit completed registrations to the proper county election officials. And I think anyone who's been associated with the system knows that will be an incredible savings of actual dollars. The development of these systems will provide more convenience to Nebraska citizens by allowing them to complete the registration process via the Web site and reduce the occurrences of entry error and result in fewer data entry errors. Section 13 of the bill would allow DMV to provide the Social Security number information to the Secretary of State for voter registration purposes. The addition of the last four digits of the Social Security number will allow the Secretary of State to use additional tools to maintain an accurate voter registration database. The Secretary assured me that he would be here today and he is. The technical parts of this, as I said, have come together over the past few years and especially in the past year. I'd be happy to answer any questions for you but the expert, as they say, is right behind me. I did hand to each one of the committee members--and is available if anyone would like a copy of it, I'm sure--each one of the bills broken out--LB661 we're dealing with now--by section. And it tells you the intent of each section and what it does to help you decipher, again, the technical aspects of each bill. With that, I stand for any questions. [LB661]

SENATOR AVERY: Thank you, Senator. Questions from the committee? I don't know if you know this but I think I have a bill on this same subject. [LB661]

SENATOR KRIST: That's why it's up to the committee which one kicks out, I guess. Thank you. [LB661]

SENATOR AVERY: You're welcome. Bye now. I don't see any questions. [LB661]

SENATOR KRIST: I'll be here. [LB661]

SENATOR AVERY: Okay. Proponent testimony? Welcome, Mr. Secretary. [LB661]

JOHN GALE: (Exhibits 2, 3, 4, 5, 6, 7) Thank you, Mr. Chairman. [LB661]

SENATOR AVERY: I am told that I did not introduce that bill after all because I deferred to you. [LB661]

JOHN GALE: And I'll address that in a second, Mr. Chairman. I will identify myself and then I have some additional materials that I want to have distributed. I'm John Gale, G-a-l-e, Secretary of State for the state of Nebraska and served 13 years. I'm in my 14th year now. And, of course, one of the larger responsibilities of my office is as chief election officer. We've spent some eight of the last years working with the federal legislation and the Help America Vote Act and the \$21 million we received from the

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federal government to modernize, standardize our election system. And we think it's been very, very successful. We've had a great working relationship with our county election officials. And now is the time to move ahead on the second wave of modernization. And that's what this bill, LB661 introduced by Senator Krist and Senator Mello, is all about. I am circulating my written testimony, which is considerably longer and more detailed than my testimony here before you today just so you have more information that you can refer to. In addition, I am going to have for distribution letters of support from Mary Eickhoff of Richardson County, David Dowling from Cedar County, Sherry Schweitzer from Seward County, and also Nancy Scheer from Madison County, all very, very experienced and respected county election officials who all are in support of LB661. And I'll give those to the clerk at this time for distribution. In addition, an interesting letter has arrived today from PEW Charitable Trusts. Now PEW Charitable Trusts is a very, very honored and respected--I'll call it--foundation, nonprofit, that follows election developments around the country in a very close way. And one thing that they have been very supportive of is the issue of on-line registration. And so I am now going to distribute the letter from PEW Charitable Trust, dated January 23, 2014; very, very interesting letter. It outlines in a very detailed way how successful on-line registration is as it has been adopted by--at this point--some 20 states in the United States. Also just for reference, as many of you probably do know, the Presidential Commission on Election Administration just released its report. That was a bipartisan commission appointed by President Obama. The bipartisan chairs were the general counsels of the campaigns for the Republican and Democratic candidates in 2012. And in their report, which I don't have copies of to distribute to you, but the newsletter that came out talking about the recommendations of that commission cover all three of the items that are contained in this bill. They are very, very supportive of on-line registration, a statewide system for individuals to register themselves on-line. They're very, very supportive of Department of Motor Vehicle captured electronic transmission of electronic or on-line registration as well as supportive of additional efforts of success and accuracy to cross-match our own database against databases of other states. And we do do that now. We cross-match with 28 other states that have 100 million population, collectively, in order to determine if there's any duplication of match so that we have ability to identify people who are attempting to register and vote in more than one state. But we don't have total success at that because without the last four digits of Social Security number, we're not able to do a lot of matching accurately that we'll be able to do more accurately with those numbers. And so the three components of our bill, which are supported by these various letters in support of this bill, number one, through the Secretary of State's Office, we will work with vendors to develop and design an on-line registration system whereby individuals can register from their home or from their office, 24/7, through that on-line system. You have to have a driver's license. And that driver's license has to be a Nebraska license that's identifiable through Department of Motor Vehicles. And from that information, we can capture accurately the exact legal name of the driver's license number and the signature. It's so critical that we have the signature for purposes of comparison when people go to vote. So that signature is very,

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very important whether you're voting by mail because you have to sign the ballot or whether you're voting in person and signing when required to vote. So those items that we're capturing through this bill are going to be very, very helpful in terms of cost savings, in terms of accuracy, and also in terms of convenience for the voters. Thank you, Mr. Chairman. [LB661]

SENATOR AVERY: Thank you, Mr. Secretary. I have one question. We hear a lot about this on-line registration being a cost-saving mechanism as well as increasing turnout, our voting participation. Do you know what the per ballot savings might be? I've heard some numbers but I don't know what's accurate and what's not. [LB661]

JOHN GALE: I really don't have that particular number in my mind, Mr. Chairman. But in terms of general cost savings, obviously right now, the Department of Motor Vehicles are processing paper applications when people come in to either secure a new driver's license or modify the one they have. They have to be asked if they want to register or change their registration. And that's all paper. And so each of the DMV field offices have to mail that paper to the various county election officials, 93 counties, depending on where the people are from. And that's a big postal cost for the Department of Motor Vehicles to move that paper. There's also an insecurity to that because anything can happen to a truck, a mail truck that's moving that information. So it is not an absolute security to the transmission of that information to the county election officials. But the cost savings is definitely the postage. Also, in terms of the time that is taken by the county election officials' staff when they receive all that paperwork. They have to now enter that data into their database by hand. They have to type it in. So they're getting the paper and then they're doing a lot of key work in order to enter that data. That will all be eliminated through the electronic transmission of the electronic transmitted applications through the DMV office. So those are certainly some of the savings that are going to be saved. DMV will also save money because they're not going to have to handle the same number of applications for registration because with electronic on-line registration, there will be more people registering on-line and they're not going to be registering by paper. So there's less paper also being handled by their agents and by their offices. So that's kind of a general sense of how we'll save some money. [LB661]

SENATOR AVERY: I notice we have people in the audience who will probably be testifying on this bill. Maybe they have that number or could provide additional information to your answer. [LB661]

JOHN GALE: They may well, Senator. Rhonda Lahm, the director of the Department of Motor Vehicles, had not yet arrived but a small glitch had developed because there are apparently two technical corrections that need to be made into the bill had come up at the last minute. And therefore, I guess, through Governor's policy she can't testify in support of the bill as introduced because these two technical errors have to be submitted as amendments. But she and her office have been extraordinarily helpful in

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dovetailing the on-line registration program that will develop and handling the DMV electronic transmitted applications that they'll develop. And it's been a very, very smooth process. Obviously, we both need to find vendors in order to ensure that it's absolute...whatever is developed is absolutely secure and safe and not subject to any kind of fraud or hacking. The interesting thing is, when we started this study a year ago there were only 13 states--which is a good number--but 13 states that had on-line registration, Arizona being the oldest which was ten years. By now, a year later, there are now 13 states that have on-line registration and 7 more who have adopted it and in the process of implementing it. So the time has come, obviously. The technology is there, there are vendors with the experience and they're ready to work with any state that wants to do it. [LB661]

SENATOR AVERY: I appreciate your comments about the Department of Motor Vehicles. We've had the same experience that you've had working with them; very cooperative. [LB661]

JOHN GALE: And Senator, I'd like to say how much I appreciate your support of this concept too. I know over the years, you have been involved with proposed bills. I guess they were ahead of their time in many ways. The economy was tight, the budget was tight, and this is going to cost some money--not significant--but it will cost some money. And there was a freeze, at that time, on any new generally funded programs. So there were a lot of obstacles in the way. But I think with the increase in technology and now we have a better economic situation, the time probably has come. But we appreciate your interest in this bill. We think it's very visionary and farsighted for the convenience of all of our voters and our county election officials. [LB661]

SENATOR AVERY: Well, I can tell you that the tone of this hearing is a lot different from what we have had on this subject when I knew that I might be the only one that was supporting the bill. It's very nice. Questions from the committee? Senator Murante. [LB661]

SENATOR MURANTE: Thank you for coming, Secretary Gale. My first question for you is, do you happen to know what percentage of the electors in the state of Nebraska right now are registered to vote? A ballpark? I don't need an exact figure, just a... [LB661]

JOHN GALE: We kind of have a ballpark. I guess it kind of varies between 80 percent and 85 percent. [LB661]

SENATOR MURANTE: Okay. [LB661]

JOHN GALE: But I guess I'd like to say I'd like to believe that it's about 85 percent of eligible who are registered to vote. [LB661]

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SENATOR MURANTE: Right. So I have to ask the question that we talked about in the interim study over the summer. That's the overwhelming majority of Nebraskans who are eligible to register to vote are registered to vote. And when we contrast that and all of the bills that we have introduced to make voter registration easier, to make an easy process easier, I understand that. But then we contrast that with our policy on petition initiatives and the ability for the citizens of Nebraska to get an issue, the first right reserved to the people in our state constitution, to get it on the ballot. And I'm wondering if we can take the concepts that you have presented before us today and what your thoughts are of merging the two and having one on-line site for the people to participate in both aspects of government. [LB661]

JOHN GALE: Well, we would certainly prefer to keep those as two entirely separate subjects, Senator. [LB661]

SENATOR MURANTE: Uh-huh. [LB661]

JOHN GALE: We have opposed on-line signatures for petitions in the past and we probably would continue to do so. I know that there is a proposed constitutional amendment to change the percentage of signatures required. But that's one issue that, obviously, we'll be neutral on. But in terms of on-line signatures on petitions, I don't think the knowledge is there. The cost is a difficult thing to figure out. The signatures are not as easy to compare if you're using on-line signatures as opposed to the wetting signatures on petitions. So we'd prefer the two issues to be treated entirely independently and separately. I would like to respond, in part, to what you said. As I indicated, the on-line registration through the Secretary of State's office for individuals does require a driver's license in order to transport the information that's needed for accuracy from the Department of Motor Vehicles. But 98 percent of Nebraskans who are eligible voters have driver's licenses. So it's not like a very limited number who are available or accessible to on-line registration. It's not just your first registration but we're talking about any kind of corrections or changes. Some 200,000 to 300,000 Nebraskans need to change their driver's licenses over the course of every two years. So even those who have a driver's license and a voter registration may need to upgrade it and this will make even that more convenient for those who are updating their voter registration. So it's not only a convenience for new registrations, it's a convenience and, hopefully, an encouragement to people to maintain accurate record of their voter registration because that can cause problems when they go to vote if it's not current. Thank you. [LB661]

SENATOR AVERY: Senator, I think, if I'm not wrong, that I had a bill to do just what you were suggesting. [LB661]

SENATOR MURANTE: And it was a wonderful piece of legislation. [LB661]

SENATOR AVERY: Senator Karpisek. [LB661]

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SENATOR KARPISEK: Thank you, Senator Avery. Thank you, Secretary. When you said driver's licenses, is that also personal identification cards, state issued? [LB661]

JOHN GALE: Well, the 98 percent I think does also include those who have entered the last four digits Social Security number but not a driver's license. So it's a combination of driver's license... [LB661]

SENATOR KARPISEK: Okay. [LB661]

JOHN GALE: ...I would say probably 97 percent are driver's license and maybe 1 percent are those that just have a Social Security number. [LB661]

SENATOR KARPISEK: Okay. Good enough. Thank you. Thanks for coming. [LB661]

JOHN GALE: Thank you. [LB661]

SENATOR KARPISEK: Thank you, Senator Avery. [LB661]

SENATOR AVERY: Any other questions? Thank you, Mr. Secretary. [LB661]

JOHN GALE: Thank you, Mr. Chairman. Thank you, members of the committee. [LB661]

SENATOR AVERY: All right. We will now move to proponent testimony on LB661. [LB661]

ADAM MORFELD: (Exhibit 8) Good afternoon, Chairman Avery, members of the committee. My name is Adam Morfeld, that's A-d-a-m M-o-r-f-e-l-d, and I'm the executive director of Nebraskans for Civic Reform. I'm here testifying in support of LB661. I want to thank Senator Krist for bringing this bill and Secretary Gale for championing it. This is an issue that we had been working with Senator Giese six or so years ago. And we're excited to see it come to a head here. I'm not going to add too much more than what the Secretary has already said. However, some questions were brought up about cost. I think one of the most compelling figures that I've heard--and it all depends on the state and how you implement and how it works--but in Maricopa County in Arizona, I think a county of about 1 million or so people, they saved...they went from 83 cents to process each voter registration card to 3 cents. That's the figure that they released in the Brennan Center reports. And there's actually a Brennan Center report here that talks about costs in about six other states, which I'll just give you and we can pass around if you're interested, Senator. The other thing that I'd like to point out is one of the biggest things that is a big surprise to people who call our office and asking about registration deadlines or where they need to vote or where they need to register is

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the fact that we don't have on-line voter registration. There are a lot of people who will message me and go, where do I register on-line to vote? And I tell them, well, we don't have that yet. And so I think that, you know, Nebraska will, number one, be ahead of the curve but then there's also a need and a demand for this. And some people just expect some of these services on-line now. So with that being said, I'm going to please Senator Karpisek and make this my second shortest testimony before this committee ever. So if you have any questions, I'd be more than happy to answer them. [LB661]

SENATOR AVERY: Thank you, Mr. Morfeld. Questions from the committee? I don't see any. Thank you. [LB661]

ADAM MORFELD: Thank you. [LB661]

SENATOR AVERY: Additional proponent testimony? All right, one of you come up. [LB661]

JACK GOULD: (Exhibit 9) Senator Avery, members of the committee, my name is Jack Gould, that's J-a-c-k G-o-u-l-d. And I'm the issues chair for Common Cause Nebraska. Common Cause has a long history of supporting the whole idea of on-line registration. And we're very appreciative of Senator Krist and Secretary of State and Senator Avery and all of the other senators that have brought bills in the past related to this. We feel that this is the finest and, as has been said, this is the hour to get this done. We believe that on-line registration will not only improve access but it will also improve efficiency and accountability. And both of those...all of those are important to the democratic process. I would like to also make note of the fact that the President's Commission on Election Administration did come out with a report yesterday. I've included in the packet that I passed out a statement from our national organization, a press release that they put out immediately after that report. I don't have a copy of the report either but the press release gives a brief summary of what they encourage...encouraging every state to move toward on-line registration. With that, I thank you. And if there are any questions, I will try to answer. [LB661]

SENATOR MURANTE: All right. Are there any questions? Senator Wallman. [LB661]

SENATOR WALLMAN: Thank you, Chairman. Yeah, thanks for coming. [LB661]

JACK GOULD: Thank you. [LB661]

SENATOR WALLMAN: You know, today's security issue with the Russian fiasco and stuff, are we...do we have equipment to really tighten this down, you think? [LB661]

JACK GOULD: Well, I think as Secretary Gale said, I mean, we've been improving every year. Every year that we've brought bills, they've improved the accuracy. And I

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think particularly on-line registration has...the way it's addressed in this bill is about as secure as we're going to get. I know there are other areas of on-line activity that you might want to question. But I think in this case, we're fairly secure. [LB661]

SENATOR WALLMAN: Okay, thanks. [LB661]

SENATOR MURANTE: Thank you, Senator Wallman. Any additional questions? Seeing none, thank you for your testimony, Jack. [LB661]

JACK GOULD: Thank you. [LB661]

SENATOR MURANTE: Good to see you. Are there additional proponents wishing to speak? Welcome. [LB661]

REBECCA GONZALES: (Exhibit 10) Well, thanks. I'll be brief too. My name is Rebecca Gonzales, R-e-b-e-c-c-a G-o-n-z-a-l-e-s, and I'm with Nebraska Appleseed Center for Law in the Public Interest. We're a nonpartisan, nonprofit organization that fights for justice and opportunity for all Nebraskans. And today we'd like to testify in support of Senator Krist's voter registration modernization bill. We need to talk a little bit about cost. At least 20 other states currently have or soon will have on-line voter registration. And it is proven to be cost effective in states that have implemented it. Washington State spent approximately \$279,000 to implement on-line voter registration and electronic registration at DMVs. And the secretary of state of Washington saved approximately \$125,000 in the first year. The counties saved even more. Modernization has also increased the number of registrations. Washington and Kansas State have doubled the number of voter registrations at the DMV since implementation. On-line and DMV electronic registration requires less data entry, are more complete and legible than paper registrations resulting in faster and more efficient registration process. Chris Nelson, the secretary of state of South Dakota, believes that automatic DMV registration has helped reduce the number of provisional ballots cast in the state. On-line voter registration can also help keep the voter registration...register cleaner by making it easier for voters to update their information. Old or inaccurate information on voter registration can increase the number of provisional ballots and cause time-consuming voter purges that can disenfranchise voters. And voters, especially younger voters, who register on-line are more likely to go to the polls and vote. LB661 will increase access to voter registration process, save taxpayers money, and increase the accuracy of the voter registration register. And we urge you to pass LB661. Thank you. [LB661]

SENATOR MURANTE: Thank you for your testimony. Are there any questions? Seeing none, thank you for coming down. Appreciate it. [LB661]

REBECCA GONZALES: Thanks. [LB661]

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SENATOR MURANTE: Are there additional proponents? Welcome. [LB661]

SANDRA STELLING: Good afternoon. I am Sandra Stelling, S-a-n-d-r-a S-t-e-l-l-i-n-g, Jefferson County Clerk, Register of Deeds, and Election Commissioner. And I'm also cochair of our association's legislative committee. I'm here today in support of this bill. I sent this out to everybody. I have not received anybody that was against it so we're here to support it. I think we need to move forward with some technology. Yes, I've been here before and opposed to it. [LB661]

SENATOR AVERY: I was remembering that. [LB661]

SANDRA STELLING: But I think things are a little bit different now. I think we're moving forward. We do have the technology that will support this or, you know, where five, seven years ago, I don't think the technology was really there. [LB661]

SENATOR AVERY: We were ahead of our time. [LB661]

SANDRA STELLING: Yeah. Well, hey, somebody's got to be. So I would encourage you... [LB661]

SENATOR AVERY: It's good to see you again. [LB661]

SANDRA STELLING: Thank you...to move forward. [LB661]

SENATOR AVERY: Questions from the committee? I don't see any. Thanks. Additional proponent testimony? Welcome, Mr. Bena. [LB661]

WAYNE BENA: Good afternoon, members of the committee. My name is Wayne Bena, W-a-y-n-e B-e-n-a. I serve as election commissioner for Sarpy County, the third largest county now with over 100,000 registered voters, so. I'm here to testify in support of this legislation here today. I really don't have much to add but I think it's always important for the largest counties to be represented to let...be able to ask questions in regard to how this will affect the largest counties. I did talk to David Shively today. His ballots for his all-mail election dropped today so he wanted to be in the office just in case any problems arise. So I'll be the largest county represented in this hearing today. I'm very supportive of ideas that will help efficiencies, streamline processes, and get access to the voters of Nebraska. So as we work with the Secretary of State's office on an implementation of such a law, we will look forward to working with them to how best assist them, how it would work with the processes we already have in place. The one piece that I want to add to this, and I did mention to the Secretary of State's office that I was going to talk about this, and this isn't something that we have to talk about right now in regards to this bill; we have time with it. Is that right now, currently, if a person wants to register to vote, we need the actual signature in order to process that

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application. We cannot accept it by fax. We cannot accept it by e-mail. We need the actual signature on the actual form. This new process would allow a digital representation of what's on your driver's license to count toward what is acceptable for voter registration. And I'm...and there's no problem with that. If this bill were to pass, I would like this committee to take a look at legislation to allow a voter registration to be able to be faxed in or e-mailed in because right now it's the only piece that we don't allow. An absentee ballot application, we allow to be faxed in, scanned in, you know, what have you. We don't have that capability for a voter registration form. So now if we're changing the policy of an actual signature, I'd like to look at possible looking at what options are for the actual paper form. But, again, if this bill were to pass, there's two...at least two years before the implementation. So again, that's just something to think about, an FYI, as this type of digital representation of a signature moves forward, so. With that, I'm willing and able to answer any questions that you might have. [LB661]

SENATOR AVERY: Willing and able? [LB661]

WAYNE BENA: And able, yes. [LB661]

SENATOR AVERY: And able. [LB661]

WAYNE BENA: This is one of our favorite things to do is ask the election commission. So I like doing this. I'm a big Legislature geek, so. [LB661]

SENATOR AVERY: Let me...well, we are too. Let me ask you, if you did an e-mail registration, you wouldn't have a signature, right? [LB661]

WAYNE BENA: If they scanned it in. I mean, if they were to scan it and send it, yes. [LB661]

SENATOR AVERY: You could...yeah, you could scan it. Yeah. Okay. [LB661]

WAYNE BENA: And that's what I meant by e-mail. If they scanned it and sent it in that way. [LB661]

SENATOR AVERY: Yeah. Okay. Senator Scheer, did you have something? [LB661]

SENATOR SCHEER: Let the Vice Chair go. [LB661]

SENATOR AVERY: The Vice Chair has...okay. He trumps. Senator Murante. [LB661]

SENATOR MURANTE: I was just wondering if you had a comment on the cost question, how much this has the potential to save Sarpy County or the larger counties. [LB661]

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WAYNE BENA: Yeah. My processes are a little bit different than some other counties. We do have a DMV located at the courthouse right across the street from my offices. So we actually pick up the DMV stuff every day as part of our daily errands. So the DMV in Sarpy doesn't have to mail them to me, we pick them up every day. However, if we...since at DMV...you can go to any DMV anywhere in the state to get your driver's license. We occasionally do get voter registrations from other counties because the DMV in Wahoo, for example, the Saunders County would send it to us because DMV would send it to Saunders first. We...and occasionally, we do have to send our voter registrations to other counties. So from that standpoint, we would save on the postage of sending those physical registrations to other counties. But we have less than other counties would. A good majority of the registrations that we get on a daily basis come from DMV. So based upon how the processes of how this is going to work--and from my understanding, this will go right into an agency central report into our voter registration system--I would still have to have a person physically look at everything to make sure everything matches before putting it in the system. But, yes, there would be less key entering. I only have, currently, one person that does voter registrations. That position would not go away because of all the work they do on the mail, walk-ups, what have you. But those counties that have multiple people, there could be efficiencies there that they would not have to have as many people key entering stuff. And especially during times of general elections when the volume picks up, we might not have to hire as many temps to do that work. So it's kind of unclear of how many people are using this and how long the process of actually accepting it through the voter registration system versus key entering it would determine the cost savings. But there would be some, yes. [LB661]

SENATOR MURANTE: Okay. Thank you. [LB661]

SENATOR AVERY: Would you be able to say significant cost savings or... [LB661]

WAYNE BENA: Again, it depends on how long it takes. I'm unsure of how long it's going to take to approve an electronic version of this versus having to key enter it. For me, I'm not going to get rid of the position of voter registration because the...but their roles might be able to be tasked doing other things because they'll be spending less time doing voter registrations. For a Douglas County that has multiple people doing that, you might be able to provide some efficiencies in positions in regards to that. But you're not going to ever eliminate, in my county at least, the position of the person doing that work because the work is going to be done by the people walking in and by mail, anyway, so. [LB661]

SENATOR AVERY: Sure. Senator Karpisek. [LB661]

SENATOR KARPISEK: Thank you, Senator Avery. Thank you, Mr. Bena, for coming. I

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appreciate when you come. I think you can break this stuff down to the layperson to understand and I greatly appreciate that. So can you help me? If we're going to register on-line now--and you talk about that we need to be able to get those signatures in on-line or faxed--if we don't do that, how's that going to work now? And I know it wouldn't go in right now but if we wouldn't do that, would you have to come in and sign or send it now? [LB661]

WAYNE BENA: Under the current...right now, you can download a form, a voter registration form, and you can type in all of the information. But then you'd have to print it off, sign it, and then it has to be physically mailed or dropped off at our office. That's the only way that you can do that. Under this system, I understand, is you could do it on-line. All your information is matched with your DMV information. And the signature you give at the time of getting your driver's license now becomes your voter registration signature that we can use to match...to verify that you are who you are. So I hope I did answer your question that way. [LB661]

SENATOR KARPISEK: You did, absolutely. [LB661]

WAYNE BENA: But again, if we go to this system, then why can't we scan or fax in a voter registration because, again, it's not necessarily the ink is the most important thing now? [LB661]

SENATOR KARPISEK: I agree. And thank you. I wasn't putting together the signature on your driver's license which, I don't know, sometimes doesn't look real anyway or... [LB661]

WAYNE BENA: And my picture doesn't look real either. I'm much better looking in person. [LB661]

SENATOR KARPISEK: And mine looks like some skinnier guy. Not a lot, but a little. [LB661]

WAYNE BENA: But, again, I don't want to make those comments anything that this bill should not move forward or even if this...the public policy that we should even allow a fax or what have you. I would say is, the majority of absentee ballot applications that come back into my office are by fax machine, which because people who fill it out, there are fax machines at people's work and they fax them into the office. So while it's okay for that signature to be okay in that instance, it's a different standard for your voter registration. [LB661]

SENATOR KARPISEK: Understand. [LB661]

WAYNE BENA: Uh-huh. [LB661]

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SENATOR KARPISEK: Thank you for helping me connect those dots. [LB661]

WAYNE BENA: Uh-huh. [LB661]

SENATOR KARPISEK: Thanks for being here. [LB661]

SENATOR AVERY: Any other questions? No. Thank you, Mr. Bena. [LB661]

WAYNE BENA: Sure. We'll see you in a few minutes. [LB661]

SENATOR AVERY: Okay. Additional proponent testimony? Okay, we'll move to opponent testimony. I bet we've got a neutral. Yes. Welcome. [LB661]

RHONDA LAHM: Thank you. Good afternoon, Senator Avery and members of the Government, Military and Veterans Affairs Committee. I don't have a...I just want to make a couple of comments for the record. I'm here today to testify in a neutral capacity on LB661. My name is Rhonda Lahm, R-h-o-n-d-a L-a-h-m, director for the Department of Motor Vehicles. And I just appreciate your comments about the department, both you and the Secretary of State. I do have good people that work for me and we do try to help people out when we can. The reason we're testifying in neutral is that we support the concept of automating what we currently do manually. There's just a place in the bill that we want to make sure that it's clear what data we're going to collect and what data we're going to transmit because some of the elements that are required for registration we don't collect, such as an e-mail address or townships or sections. And those...and people would not have that information when they come to our office to renew a license. So we just want to make sure that's clear in the bill. And so we're going to be working with the Secretary of State, committee, Senator Krist to get that amendment so we can make sure that that's clear. We don't want to commit to providing information we're not able to provide. And we also don't want to ask the people that come to our office to provide a lot more information because that would probably irritate them. And our examiners don't want to have to data enter a lot more information. So that's why we're testifying in the neutral. I'm happy to answer any questions that you may have. [LB661]

SENATOR AVERY: Thank you. Thank you. Questions from the committee? Senator Wallman. [LB661]

SENATOR WALLMAN: Thank you, Chairman. Yes, thank you for what you do. [LB661]

RHONDA LAHM: Welcome. [LB661]

SENATOR WALLMAN: And a year or so ago I was behind a homeless person. He wanted to get a badge, you know, an identification thing. [LB661]

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RHONDA LAHM: A state identification card, yes. [LB661]

SENATOR WALLMAN: And it seemed like extremely hard for him to get that. [LB661]

RHONDA LAHM: One of the things that we do...it'll just take a second. It might be a little bit off topic here but to address your questions is, we do have people who are at the City Mission that we issue ID cards to all the time. And the requirements are the same because they're set out in statute. [LB661]

SENATOR WALLMAN: Yeah. [LB661]

RHONDA LAHM: We have to have a document for identification that's on our list and two address documents. But for somebody that's homeless, if they're doing other than sleeping...wherever they're spending the night, so if they're spending the night at the City Mission or something, we can use those addresses. And what we do is have a friend or relative or someone who knows them mail a piece of mail to them at those addresses and then we can use that for address verification. The law prohibits us from issuing a document to somebody that we don't prove physically resides in the state. And so having it mailed to them, it goes through the post office, it shows that is an actual address and they reside there or are listed as residing there. And then we can issue the document. [LB661]

SENATOR WALLMAN: Yeah. [LB661]

RHONDA LAHM: And if they have any questions, they can call our office. We can work with them. [LB661]

SENATOR WALLMAN: Okay. Thank you. [LB661]

RHONDA LAHM: You're welcome. And just to clarify the question Senator Karpisek asked about state identification cards, our system doesn't differentiate on the number whether it's a driver's license or a state identification card. They're all issued in sequential numbers. So the OLN number would include both. [LB661]

SENATOR WALLMAN: Thank you. [LB661]

RHONDA LAHM: Welcome. [LB661]

SENATOR AVERY: Any more questions? I don't see any. Thank you. [LB661]

RHONDA LAHM: Thank you. [LB661]

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SENATOR AVERY: More neutral testimony? Don't see any. Senator Krist, you are recognized to close. [LB661]

SENATOR KRIST: I think this is testimony that perseverance is required in some cases to get to a point. And the technical side of this has finally caught up with the forward thinking of what I saw when I first came into the Legislature and sat in this committee. I would be remiss in saying...because my son has been after me since 2009 to do this very thing. He is a...now a 31-year-old that said then, why can't we register on-line? So I think this is going to do nothing but increase the number of people who want to participate in the democratic process. With that, I will take any questions you might have. [LB661]

SENATOR AVERY: (Exhibit 11) Any more questions for Senator Krist? I don't see any. No need to leave the table since you're up next. That ends the hearing on...almost ends the hearing on LB661. But we have a letter of support here for LB661 from an old friend, Diane Olmer. [LB661]

_____ : And she's in support? [LB661]

SENATOR AVERY: And she is in support. That's an inside story, folks. [LB661]

SENATOR KARPISEK: I should have brought a bill to this committee. [LB661]

SENATOR AVERY: That ends the hearing on LB661 and we'll now go to LB662. Senator Krist, you're...(See also Exhibit 12) [LB661]

SENATOR KRIST: That information makes me very proud. Thank you. [LB662]

SENATOR AVERY: It might be the first time. [LB662]

SENATOR KRIST: (Exhibit 1) I think so. Thank you, members of the committee, Senator Avery, again, for the opportunity to be in front of you. This separate subject matter is LB662. My name is Bob, B-o-b K-r-i-s-t, I represent the 10th Legislative District in northwest Omaha along with north-central portions of Douglas County and includes the city of Bennington. Folks in Bennington get upset if I don't mention their name when I say that. I appear before you today in introduction and support of LB662, a bill that I introduced at the request of the Nebraska Secretary of State, John Gale. LB662 seeks to increase the integrity of the election process by addressing two areas that are at higher risk for potential fraud. The bill would accomplish this by proposing changes both new and to existing statutes regarding voter identification. LB662 would amend current identification requirements for the first-time voters that registered by mail. Current law lists several forms of identification, including utility bills and bank statements. As these types of documents are more easily altered or forged, LB662 would eliminate such

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items as appropriate identification for first-time voters. Various forms of government-identification documents from federal and state or local agencies containing the applicant's name and address would still be allowed under LB662. The proposed legislation also creates a new identification requirement for those voters where the election officials have received information that the voter has moved. The voter has been sent a postage-paid notice to confirm the information, the voter has failed to respond to the notice, and the voter appears at their previous assigned polling site to cast a ballot. The identification required would be a current government-identification document and contains a photograph or image of the voter. This one may not be as loved as the first one. I've already heard in the eleventh hour many come forward and say voter ID is voter ID is voter ID. And although I think we have seen some examples of fringe attempts, they've been blamed on political interests on both sides. I think that this represents the most centrist approach that I have seen to the issue. It may not be perfect. And this committee will have to wrestle with the technical side of it. But I think in terms of starting the debate--and I hope the public is listening--starting the debate on the subject matter in LB662, it starts at a point that is very, very well thought out. Again, Secretary Gale spent the last year researching his--basically, 14 years but the last year, in particular--researching how to do this very thing. With that, I would ask you for your support of LB662 in its present form or as amended by the committee, and I'd stand for any questions. [LB662]

SENATOR AVERY: Thank you. Questions from the committee? All right. [LB662]

SENATOR KRIST: I'll be here. [LB662]

SENATOR AVERY: Just one. I just want to ask one. [LB662]

SENATOR KRIST: Oh, sorry. [LB662]

SENATOR AVERY: What would you say to those who are skittish about, nervous about, afraid of, the voter ID portion of this, even though it's voter ID light? What would you say to assuage their concerns, fears, anxieties? [LB662]

SENATOR KRIST: I would say that having read over this document and talking with the Secretary and his folks, if there is voter fraud, this is probably the highest risk area and the most vulnerable area that exists. I know we've seen fraud in other states. I'm not sure it's prevalent in the state of Nebraska but if it would be exploited, this is the area that needs to be controlled. And what I would say is, if this isn't the answer, let's talk about what is. Let's really get into the trench and say, Secretary, this may have been...but I believe that this is a good approach, so. And again, I would hope people would understand, this is the beginning of the conversation on this topic. And we should take advantage of this year because the three bills by themselves independently, addressed independently, also play into making Nebraska not only more...a safer place

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to vote and securing those votes and making sure they're coming from the right people, but it also encourages people to vote, I think, in total. So that would be my answer, and it has been my answer when I've been asked. [LB662]

SENATOR AVERY: Let me ask you a follow-up. I hate the word slippery slope, so I'm not going to use it. What about the argument that this is the foot in the door to full-fledged voter ID? What would you say to that? [LB662]

SENATOR KRIST: I would say that there have to be 49 men and women who sit in that Chamber that allow us to slip down that slope. And I don't think that's going to happen. It's been very difficult to get to the place we are right now, as you know. And it is the nonpartisan-based Legislature that we have that has protected us, in general, from going down that slope. [LB662]

SENATOR AVERY: You used slope. [LB662]

SENATOR KRIST: I did. My favorite person, actually, Senator Utter, used to use it all the time. And I used to tell him, I hate that saying. And he said, I don't care. [LB662]

SENATOR AVERY: Any other...Senator Bloomfield. [LB662]

SENATOR BLOOMFIELD: Thank you, Senator Avery. Senator Krist, I've mentioned to you off the mike on the floor that I got a letter from the American Indian tribes that are curious about what of their identification we might be able to use. And if you'd rather, I will ask Secretary Gale about that when he comes up. [LB662]

SENATOR KRIST: I would, because I want that to be accurate on the record from the very beginning. I do...I think I know, but I would prefer, yes, sir. [LB662]

SENATOR BLOOMFIELD: Okay. Okay. Thank you. [LB662]

SENATOR KRIST: Thank you. [LB662]

SENATOR AVERY: I don't see any more questions. Thank you. [LB662]

SENATOR KRIST: Thank you. [LB662]

SENATOR AVERY: Proponent testimony? Welcome back. [LB662]

JOHN GALE: (Exhibits 2, 3, 4, 5) Mr. Chairman, thank you. I'll introduce myself and then I will identify some documents for distribution. I'm John Gale, J-o-h-n G-a-l-e, Secretary of State for the state of Nebraska. And I'm here to testify in support of Senator Krist's bill, LB662. I have with me my written testimony in support of this bill, which is in much

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more detail than what I'll be able to testify here today. But I do submit it to you for your consideration. And then, likewise, Mr. Chairman and members of the committee, I have an adequate number of letters of support for LB662 from Sherry Schweitzer, Seward County Clerk, from Dave Phipps, Election Commissioner, Douglas County, and from Nancy Scheer, Madison County Clerk of Madison, Nebraska, for your consideration. Well, Mr. Chairman and members of this committee, I will tell you that our study in our office began about a year and a half ago because of the considerable number of what we call voter ID bills that were being adopted around the state. From our examination from them, there was no singular pattern for voter ID legislation. It covered a myriad of possibilities, a myriad of kind of documents that could be used for ID purposes, a myriad of exceptions where people didn't have one kind of ID. And we realized there wasn't really any one, what you would call a specific, a classic, a model voter ID bill because of the 30, now probably 36, states that have some kind. They range from very, very unrestricted types of ID to very, very restrictive types of photo ID. So I had long conversations with my staff about, well, if we're going to talk about voter fraud, what is the most vulnerability in our election system for voter fraud? Does it occur at the last moment at the casting of the ballot at the precinct or does it happen previously during the registration process? So we studied that issue for a year and a half, and what we came down to was that there were three areas that presented the greatest vulnerability for potential fraud. And those were the area of individuals who seek to register and vote at the same time by early ballot in the election commissioner's office. That bill was introduced by Senator Nelson last year, not with having come out of our study but we supported the bill because we think it is one of those areas. The second one is the area of people who register for the first time by mail and not in person. The current law requires just the most minimal of ID for those people. It does require ID. This is not a new concept, it does require that you have a bank statement or a utility bill or some modest document of that nature that connects your name to the address. So we do have a level of ID required for those early registrants by mail. We, in our discussion, realize that this is a small number of people, it's not a large number of people. And secondly, that that form of identification can so easily be fabricated. You can take somebody else's bank statement or somebody else's utility bill, whiteout the name and address, type yours in, photocopy it, and you've got a document that looks like a perfect copy of the original something, whether a utility bill or bank statement. It's so easy to fabricate that it's an inducement for somebody who wants to commit fraud on a wide basis to use that method. So we're asking that we have a government-issued ID document. Not photo ID, but an ID document. Now that was not contained in the bill that was originally introduced by Senator Krist, but we are asking for a technical amendment due to our discovery that a simple government document, either federal, state, or local, would not be sufficient because it still would cover things like utility bills because of our public power system. So we're asking that that be a government ID document. And there are many, many kinds of that. But we want to enhance that. The other part of the bill that is much more significant is the part that says that those who are subject to the National Voter Registration Act, the Motor Voter Act, who have, themselves, initiated a

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written notice to the U.S. Post Office that they have permanently moved, who then receive from the county election official a request for confirmation with a prepaid postage for that confirmation, and the people fail to return it, they fall into the NVRA system. And as a result of that, they are marked as inactive on our voter registration system. But by federal law, we can't remove them for four years or two federal election cycles. So they are phantom registrants during that period of time. Mr. Chairman, I've run out of time, so I guess I'll just have to subject myself to questions to try to complete that statement. [LB662]

SENATOR AVERY: Subject yourself to questions. Let's go easy on him, huh? Senator Bloomfield. [LB662]

SENATOR BLOOMFIELD: I believe this is proper. Secretary Gale, is there more you would like to say? [LB662]

JOHN GALE: Thank you, Senator Bloomfield. Well, there are a few concluding remarks I would like to share. From our examination, we have 1.15 million registered voters in the state of Nebraska. And those who are subject to the NVRA at any one time, it's a moving target, but it's about 100,000. So it's approximately 7 percent or 8 percent of the total registered voters who are subject to the NVRA. I don't like the NVRA in the sense that having to sit on those for four years, I think, is very, very excessive, particularly because those people initiated the process by giving notice of permanent move to the post office. And then, secondarily, refusing to return the confirm card which is forwarded to them at their new address. Now you break that 100,000 down, and 75,000 of them are those that we have every indication have moved either out of the county or out of the state and we think, for the most part, out of the state. The other 25,000 are those under the NVRA that have moved within the county. And the NVRA requires that we take their new address as indicated on the notice to the post office and enter that as their address on their registration record so that when they show up, if they do show up, to vote at their new precinct at that new address, they can vote provisionally. In other words, they're covered; the NVRA covers them. But those who have moved out of the county or moved out of the state are sitting there as a phantom registrant for four years. And we see that as a huge opportunity for fraud for this reason, and this has been documented by other reports: Somebody can walk in, since you don't have any identification requirement, and say you are John Jones at that address, and you were given a ballot. Even if someone is suspicious that you're not John Jones, because maybe John Jones is 70 and you're 25, but they cannot ask you for ID. They give you the ballot if you sign the book, if you identify yourself. Very, very simple. And consequently, because it's public knowledge, it's on the database that we sell for any kind of political-motivated organization, they have that information that shows those who are on the NVRA as inactive. And consequently, if they wanted to go out and hire 10, 20, 100 people to go vote in the name of 5 or 10 other people and they can give the name and address which is easily available to them on the database, they can do so.

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And will it influence a close race? It could influence a close race very easily. You say, well, why would somebody do that and possibly commit fraud, a federal felony, state felony. Well, the report from New York that we have received and reviewed, indicates that it happens regularly in New York that people attempt to vote in somebody else's name. And when confronted about whether she or he is...you don't look like my friend, Maude Jones, because she's 80 and you look like you're 20, they walk out. I mean, they're not apprehended. There are no security officers in a polling site to apprehend anybody. They simply walk out or they excuse themselves and say, I have to go lock my car or I've got to go get something from my car. So it's not easy to apprehend those who attempt to falsify and appear and impersonate someone to vote. Okay, so do we impact 100,000 people? No, we don't impact 100,000. There are 100,000 who are those who have moved, 25,000 can still vote if they're in the same county at a new address because that new address allows them to vote provisionally. So you have 75,000. Of those 75,000 what we've been able to determine is it's less than 1 percent, maybe a half of 1 percent, maybe you're talking about 1,000 who are actually still valid names at that valid address for which they had been registered. So that means that a small error can be made. And some people think they are going to Florida temporarily and they mark the permanent move box. They come back home again and they show up to vote at that new address. Well, it's a very, very small number that we're asking for photo ID because those are the very, very people who are greatest vulnerability to fraud impersonation. So we've seen, okay, out of those 75,000 there's maybe about 1,000 who might be impacted who are going to have show up to photo ID because they're claiming to be the same person at that original address for which they gave notice they had permanently moved. So this has nothing to do with economic status, minority status, disability status, as a result of financial consequences or burdens imposed by a photo ID bill. This has to do with a system initiated by those very people who have to be responsible for their actions who say, I have moved permanently and I've refused to confirm my move, and so they disappear. And there it is, still on the record by federal law. So we're asking for a government photo ID for those. And on the others who are first-time registrants by mail, we're asking for a government ID document. Thank you, Mr. Chairman. [LB662]

SENATOR AVERY: Thank you. Want to follow-up? Senator Bloomfield. [LB662]

SENATOR BLOOMFIELD: I mentioned to Senator Krist that I had been contacted by the tribes up in my district, the Indian tribes. [LB662]

JOHN GALE: Yes. [LB662]

SENATOR BLOOMFIELD: And they are concerned about what they may be able to use as identification. Can you clarify that a little bit? [LB662]

JOHN GALE: Well, understand that this is not a bill that requires everybody to show up. It's just those who have given notice of permanent move... [LB662]

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SENATOR BLOOMFIELD: Understood. [LB662]

JOHN GALE: ...and then try to show up at that same address. And a government photo ID would be a tribal identity document that would have a photo. [LB662]

SENATOR BLOOMFIELD: Their concern was whether or not the tribal document would be used. [LB662]

JOHN GALE: A tribal document would be...because that's a government-issued document. And if it's a photo ID that shows name and address, that would be sufficient. Or if they have a driver's license, Senator. I mean, 98 percent... [LB662]

SENATOR BLOOMFIELD: Yeah. [LB662]

JOHN GALE: ...of registered voters have a driver's license. So there are several possibilities. They could have a military ID, photo ID as well. They could have a passport. They could have a...I mean, maybe in the tribal area there are many people who are employed as federal employees. They have a federal employee ID card with a photo, that's sufficient. So there are a lot of opportunities. And we're only talking about maybe 1,000 people statewide, so it's a small, small number. [LB662]

SENATOR BLOOMFIELD: Their big concern was whether or not their tribal document would be acceptable, and you're telling me that it is. So thank you. [LB662]

JOHN GALE: And that would be acceptable on the mail-in provision. If they were a first-time registrant by mail and they include a copy of that...of their driver's license or their tribal ID number, that's more than sufficient as a government-issued document to get them registered by mail. [LB662]

SENATOR BLOOMFIELD: Okay, thank you. [LB662]

JOHN GALE: It's just those who don't have a driver's license number, a Social Security...last four digits Social Security number, and they don't issue...send in any further evidence of who they are to identify them with that address, they're the ones that are suspect. Most people have driver's license, they send a copy of it, they're good. Thank you. [LB662]

SENATOR AVERY: Do you know if the Native American documentation has a photo on it? [LB662]

JOHN GALE: Excuse me, Senator. [LB662]

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SENATOR AVERY: Let's say I'm a Native American and I have a document from the Bureau of Indian Affairs that verifies that I am a Native American with my name, address, but no photo. That would not be a valid document, right? [LB662]

JOHN GALE: Not in this instance because of the potential of fraud of the very person showing up by name and address after having given written notice that they've moved. The potential for fraud there just...we want to have photo ID. [LB662]

SENATOR AVERY: Any other questions, comments? I don't see any. Thank you. [LB662]

JOHN GALE: Thank you, Senator. [LB662]

SENATOR AVERY: Additional proponent testimony, LB662. [LB662]

SANDRA STELLING: Good afternoon again. [LB662]

SENATOR AVERY: Welcome back. [LB662]

SANDRA STELLING: I'm Sandra Stelling, S-a-n-d-r-a S-t-e-l-l-i-n-g, Jefferson County Clerk, Register of Deeds, Election Commissioner, and cochair of our association legislative committee. I'm coming in as a proponent on this today for the identification for purposes. As Senator Gale or Secretary Gale said, we do have that for first-time voters right now if they did not submit in a mail registration. And I think this would definitely help our workers that they only have to look for one form of ID that these people would not have to bring something else that they think they have but yet it's not. And our small villages, when you send a statement to anybody in the small villages, they ask for a box number for the majority of people. This would help this because a driver's license or a government document would definitely state the actual address where they lived. So that's basically all I have. We come in as a proponent for it. If you've got any questions, I'd be willing to answer. [LB662]

SENATOR AVERY: Okay. Questions? I don't see any. Thank you. Additional proponent testimony? Okay, we'll move now to opponents. No opponents? [LB662]

BOB KRIST: There's one. [LB662]

SENATOR AVERY: Welcome back. [LB662]

ADAM MORFELD: (Exhibit 6) Good afternoon, Chairman Avery and members of the committee. My name is Adam Morfeld, that's A-d-a-m M-o-r-f-e-l-d, I'm the executive director of Nebraskans for Civic Reform. And I'm here to testify in opposition to LB662. I have some testimony, but there's a few things I'd just like to address from the forefront.

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First, we'll have to talk to Secretary Gale and clear some things up, I think. But my understanding is that the people that are on this NVRA list--and it's an active list--that would be impacted, are not just people that fill out a national change of address form. It's also individuals who, for instance, they move or they leave their residence temporarily or maybe they're students or whatever the case may be. And they're sent a notice and then it's returned back as undeliverable to the election commissioner. And that's just from talking to a few election administrators in the past. So maybe this is a list that's pulling it from a different group and it's only that group and they're changing that now. I don't know what the case is, but that's something that we'll have to clear up. You'll hear from various organizations testifying in opposition to this legislation today. And I won't spend time on the points that they'll make after me about the lack of free IDs for purposes of voting for this bill, domicile issues, lack of notice, show ID, ambiguity in the definition of government-issued identification card, and so on. However, the document that I'm about to pass around here does analyze that number of 116,000 a little bit. Now it's important to note, though, that the analysis comes from a list of voters that will be required to show ID under this legislation. It does contain 116,000 people. However, it's important to note the Secretary of State's office informed us that of this 116,000 people only a small subset would be affected. And it would...now they're saying 1,000. I was informed at the time, a few thousand. So it's hard to tell. Nobody knows exactly how many. But I do want to acknowledge that it's not 116,000. We're not trying to say that. We make it very clear in the beginning of the analysis. But what we did want to do is look at the 116,000 people and determine what do they look like. We found that they're overwhelmingly younger, under the age of 35, and that they're overwhelmingly rural, actually. And as a threshold matter, we're opposed to this legislation because, first, it's unnecessary. And when addressing policy issues that do not deal with clearly established fundamental rights, taking preventative action without any cause or evidence of an actual problem may actually be appropriate. However, when restricting fundamental rights, and particularly a right that goes to the very core of our representative democracy, there should be a compelling state interest. And in my opinion, there cannot be a compelling state interest, only unless there is an actual identifiable problem, not mere conjecture or fear of one. Second, the requirement that it be a government-issued photo identification card with a current registered address--and I have not seen the amendment yet, so I'd be interested to see that--is particularly troublesome to us. Based on our analysis of this group of individuals impacted overwhelmingly...they are overwhelmingly 35 and younger and will undoubtedly be more highly mobile and likely not have such a stringent form of identification. One such example is students. When I was an undergraduate I was an assistant residence hall director. And many of my residents, including me, moved three times a year. Sometimes I would move in the semester. I would move some more or at the end of the semester. And then I'd move into another residence in the summer. And then I'd move back into the dorm in a different dorm with a different address in the fall. Sometimes I would actually move back into the same dorm and for whatever reason, I could have received a notice from an election commissioner. It could have bounced back because I

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wasn't there for the summer. I would come back in the fall to vote in the November election. And in this case, I would probably be required to show some kind of identification. Identification that many students don't have because oftentimes they keep their parents' permanent address, whether they live in Omaha or Scottsbluff or whatever the case may be. But they're actually registered to vote, pursuant to state law and pursuant to Supreme Court decisions saying they can be registered to vote at their campus address. And finally, it's also important to note that the strict photo ID requirement is contingent upon responding to a mailed request for verification. It is important to recognize the increasingly diminished role and importance that mail plays in people's lives and particularly younger individuals. I took a quick straw poll of some of my friends under the age of 30. And over half of them don't even receive paper bills anymore. None of them receive letters from their family members via mail. Mom will either text, Facebook Chat, or call if they need to get ahold of them. Many noted they rarely even look closely at their mail because most of it is junk and they don't expect to get anything important at all. Even one of my grandmas now Facebook Chats me whenever she needs to get ahold of me. If the Secretary of State's concern is the inaccuracy of the list and the lack of knowledge that some individuals domicile and registration status, then this is not the solution. Rather, modernizing our election and voter registration system is. Common sense reforms that are widespread in other states such as on-line voter registration, which we discussed today, election-day registration, all ensure up to date registration lists and allow election administrators to focus on more targeted problem areas within those lists. Now I told Neal Erickson, with the Secretary's office, and then I also told Senator Krist, we're more than happy to entertain or look at address verification instead of a strict photo ID requirement. We believe that address verification, as currently provided under the HAVA requirements, would be a type of verification that a lot of these folks that we're concerned about being impacted by this law would likely have. With that being said, I'm out of time. I'd like to thank the committee for your time. And I urge you to indefinitely postpone this legislation. And I'd be more than happy to answer any questions. [LB662]

SENATOR AVERY: Thank you, Mr. Morfeld. You passed out a document entitled "Voter ID Impact Analysis." [LB662]

ADAM MORFELD: Uh-huh. [LB662]

SENATOR AVERY: And on page 4, item 3, you suggest that--you don't suggest it, you state it--that this is likely an unconstitutional poll tax and NCR would take legal action on behalf of affected citizens. Would you elaborate on that? [LB662]

ADAM MORFELD: My concern in that area is specifically out-of-state students, which are increasingly coming to the university due to recruitment. Oftentimes these students have a Minnesota driver's license, say. And then they move to their campus polling location. They move around a lot on campus back and forth. And then if they have to

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show up and show some kind of Nebraska state-issued government identification with their current address on it, their current registered address, they're likely not going to have it. And they're going to have to pay for ID specifically for that purpose of voting. That's my concern. [LB662]

SENATOR AVERY: And that would be tantamount to a poll tax? [LB662]

ADAM MORFELD: I believe it would be. There's litigation in other states that's pending on that issue. And I think it would particularly be something that under our own Article I, I believe it's Section 22, the state constitution has a very stringent protection of voting rights. So I think there's a potential there as well. [LB662]

SENATOR AVERY: So those states that have passed voter ID in whatever form, limited or expansive or whatever, and have had their laws tested in the courts and have passed that test, are those states that have provided a free photo ID only? I mean, is that the linchpin that allows them to...the courts to say, yes, what you're doing is constitutional? [LB662]

ADAM MORFELD: The case...the seminal case on voter ID is, I believe, Crawford v. Indiana. And in Indiana, they did provide free identification cards for purposes of voting. That was a facial challenge. They have not had an at-applied or as-applied challenge yet reach the Supreme Court, the United States Supreme Court. There have been challenges that have been successful on the state level and on the federal district court level, as applied. So people that are actually impacted coming and bringing a claim. Whereas the Indiana case was, we just think on the face of the law, it's unconstitutional. The Supreme Court agreed with them in that case. But they did provide free identification cards. [LB662]

SENATOR AVERY: And what about Georgia? Was theirs an on-its-face case or was it as applied? [LB662]

ADAM MORFELD: You know, I can't remember, Senator. I want to say that it was a facial challenge. And it never made it past the district court for various reasons. I can't remember those reasons. [LB662]

SENATOR AVERY: Okay. Questions from the committee? Don't see any. Thank you. [LB662]

ADAM MORFELD: Thank you. [LB662]

SENATOR AVERY: We're on opponents to LB662. Welcome. [LB662]

DONNA ROLLER: (Exhibit 7) Hi, Mr. Avery...Senator Avery, I'm sorry. I'm Donna Roller,

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R-o-l-l-e-r is my last name. First name is Donna, D-o-n-n-a. And I heard Mr. Gale's testimony and he addressed some of the issues but...my concerns. But I want to play devil's advocate and on this...that we need to err on the side of caution because voter ID of any kind could be subject to some kind of voter suppression. And when he says that we have a Legislature and so many other senators that would prevent that from happening...this Legislature has a history of that not being true. And so I know the power of money in lobby groups. And there has been closed-doors meeting, behind closed-doors meeting with our Attorney General to get things done here. So forgive me if I am a little apprehensive. And so my testimony...I did a little research on the Internet for whatever it's worth. And I did read this entire bill. And it says in the intent that it's to improve the integrity of our election process to address voter identification to areas of higher risk fraud. This very premise of this bill is misguided in (inaudible). Voter fraud is practically nonexistent according to what I did. And there was pages and pages of Internet sites. And I found very few that said they were legitimate. And between 2009 and 2010 there were 649 million votes that cast in general elections and only 13 cases of in-person voter impersonation. Now given the value of one vote, I can't elect that president. You know, and the fines that are induced because you're trying to fraud, nobody's going to intentionally want to do that. I mean, and if they do, it's not going to sway election. In Iowa they spent \$150,000 to explore voter fraud and, instead, they found nothing significant. In Arizona, undocumented immigrants rarely committed voter fraud. In South Carolina, Republicans complained about dead voter fraud in blown up case were unable to find one single zombie voter. In North Carolina, the voter suppression law will make it harder for a democratic presidential candidate to carry the Senate in 2016. And President Obama won that election in that state. And there's the Brennan Center for Justice in New York State University of Law that has extensively done voter research fraud. And their highlight of their...here are some of the highlights of their publication, The Truth About Voter Fraud. Allegations of widespread voter fraud often prove greatly exaggerated. Many of the claims of voter fraud amount to a great deal of smoke without much fire. Claims of voter fraud are frequently used to justify policies that do not solve alleged wrongs, but they would well disenfranchise legitimate voters. Overly restrictive identification requirements of voters at the poll which address a sort of voter fraud more rarely than death by lightning is only the most prominent example. By inflating the perceived prevalence of fraud by voters, policymakers find it easy to justify restrictions on those voters that are not warranted by real facts. Moreover, mislabeling problems as voter fraud distracts attention from the real election issues that need to be solved. Voter ID has been passed in many states since 2009. And ALEC, the American Legislative Exchange Council, is linked to these laws. The intent is not to prevent voter fraud but to deny people the right to vote, complicating the voting system, and lengthening the lines, and making government less efficient. The real purpose of these laws is so that, basically, they stand to lose a lot of money if they lose elections that side with their cause so they want to make sure that elections are to their benefit if they can suppress the poor, the minorities or the young or the elderly or those people that find it difficult to get to the polls. I argue that the more concern for the

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people of this state is the billions of dollars being spent by corporations in election sponsorship and lobbying to buy our elections. This bill has little to do with making our electorate process better and it's, frankly, a waste of paper. And I don't think there's a coincidence that voter IDs of some sort are passed and introduced in many states is suspicious, as ALEC has written all over it. And forgive me if I feel very suspicious, but I think the threat is very, very real. You might think it's safe, but at any time some big lobby group can come in and buy your vote or put some kind of pressure on you. Forgive me for thinking that, but it's...I've been burned once and I don't want to be burned again. Thank you. [LB662]

SENATOR AVERY: Thank you. Questions from the committee? Senator Wallman. [LB662]

SENATOR WALLMAN: Thank you, Chairman Avery. Yeah, Donna, thank you for coming. Do you...I read this stuff too. And are you concerned also about electronic voter fraud? [LB662]

DONNA ROLLER: Well, I didn't know too much about that bill. I don't think so because we do...my husband banks on-line too. And I had a scare this week with the Target breach. And I had two Target, debit and credit. And I was...we've been watching our credit like a hawk, and I thought something had happened. And it made me extremely terrified. And I made necessary phone calls and found out that it was the bank that entered something on a line as a debit when it was actually a payment to that credit, you know. So it was false, but it was alarming. So, yeah, I am concerned about breaches in our Internet. But, you know, if you...it must be...I think that bill is good. I do. [LB662]

SENATOR WALLMAN: We've had, you know, personal identification fraud already in our family, so. [LB662]

DONNA ROLLER: You have? [LB662]

SENATOR WALLMAN: Yeah. [LB662]

DONNA ROLLER: From Internet? [LB662]

SENATOR WALLMAN: Yeah. [LB662]

DONNA ROLLER: Yeah. It scares me. [LB662]

SENATOR WALLMAN: So I will not do any banking on the Internet. [LB662]

DONNA ROLLER: Well, it scares me, frankly. It really, really does. [LB662]

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SENATOR WALLMAN: Thank you. [LB662]

SENATOR AVERY: Senator Scheer. [LB662]

SENATOR SCHEER: Thank you, Senator. Just...I was listening and read your testimony. And a lot of what you talked about was other states and things that were not really relevant to this specific legislation. And in listening to the Secretary talk about it's a pretty narrow band that we're talking about trying to secure. Do you really see that as this overreach and that it's...that that potential doesn't exist? [LB662]

DONNA ROLLER: For voter fraud to exist? [LB662]

SENATOR SCHEER: Uh-huh. [LB662]

DONNA ROLLER: I think if there is, it would be very minor. You're talking about--like you are--you're talking about a very small group. [LB662]

SENATOR SCHEER: Uh-huh. [LB662]

DONNA ROLLER: And I really don't think this legislation is necessary for that small group. [LB662]

SENATOR SCHEER: Okay. [LB662]

DONNA ROLLER: And don't you think that the electronic voting registration will alleviate these problems? [LB662]

SENATOR SCHEER: It might. I don't know. But I do know that this exists. And maybe I'm more of a purist. My concern is just last year, the last election cycle, you made the comment that it's not very prevalent or there's not many cases. And you again said, well, there's not a large number here. But there was an election just in the state of Nebraska, I believe it was a county commissioner or board of supervisors, that literally ended in a tie. So it would only take a voter fraud of one person. [LB662]

DONNA ROLLER: Yep. [LB662]

SENATOR SCHEER: Those are unusual, but especially in small areas they do happen. And I guess maybe, perhaps the reverse of you, I would like to make sure that that election was decided on those local residents rather than somebody... [LB662]

DONNA ROLLER: People that would be coming in. [LB662]

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SENATOR SCHEER: ...or a number of people that would be coming in on a fraudulent basis. And I don't have proof that it could...that it has happened. But I do know that we have had ties from an electoral standpoint. And I would hate to have those be decided... [LB662]

DONNA ROLLER: Right. [LB662]

SENATOR SCHEER: ...by somebody outside the state, I guess. [LB662]

DONNA ROLLER: And I agree with you. I just wanted to throw out the potential of a danger. I just think we need to be very cautious. It is our right to vote. [LB662]

SENATOR SCHEER: Sure. [LB662]

DONNA ROLLER: And I don't want anything to happen to that. And sometimes legislation can be negatively affected that you didn't think about. [LB662]

SENATOR SCHEER: Sure. [LB662]

DONNA ROLLER: And then you have to amend it or...you know, I'm not an expert. [LB662]

SENATOR SCHEER: Nor am I. [LB662]

DONNA ROLLER: I'm just an outside person expressing my concern that I don't...I want us to really err on the side of caution whenever you are requiring an ID. [LB662]

SENATOR SCHEER: I appreciate it. Thank you very much. [LB662]

DONNA ROLLER: And thank you. [LB662]

SENATOR SCHEER: Thank you, Senator. [LB662]

SENATOR AVERY: Additional questions? Senator Bloomfield has one. [LB662]

SENATOR BLOOMFIELD: Thank you, Senator Avery. In your testimony, you made what sounded a lot like made to an accusation against our Attorney General. [LB662]

DONNA ROLLER: Well... [LB662]

SENATOR BLOOMFIELD: I would like you to clarify that a little bit if you could. [LB662]

DONNA ROLLER: It evolved around the KXL pipeline. And I have a long page--I didn't

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bring it with me--but a very long document that was submitted to the Department of State. When the citizens came into his office to ask for a representation to find out what was happening...I can't say all the details, it's been a while since I read it. But there was a secret meeting in place with TransCanada. And they were all swept away very quickly into a private office. And the Governor made a threat to the citizens of this state to send the National Guard out because they oppose this pipeline. [LB662]

SENATOR AVERY: I'm going to have to stop you there. This is not about the pipeline. [LB662]

DONNA ROLLER: Well, he asked me. [LB662]

SENATOR AVERY: I know, I know. [LB662]

DONNA ROLLER: Thank you, Mr. Avery. I didn't really want to say that. [LB662]

SENATOR AVERY: Any other questions? Thank you for your testimony. [LB662]

DONNA ROLLER: I apologize. I don't want to offend anybody. I just... [LB662]

SENATOR AVERY: No, it's...you didn't offend anybody. [LB662]

DONNA ROLLER: Okay. [LB662]

SENATOR AVERY: I just have to keep us focused on the subject matter. [LB662]

DONNA ROLLER: Thank you. Thank you, Mr. Avery. [LB662]

SENATOR AVERY: Next opponent. [LB662]

SHERRY MILLER: (Exhibit 8) Good afternoon. I'll make this brief. I have two freshmen over at Lincoln High probably standing wondering where I am. But this is important. Good afternoon, it's a pleasure to be here. My name is Sherry Miller, S-h-e-r-r-y M-i-l-l-e-r, and I am here today in my position as president of the League of Women Voters of Nebraska to speak against LB662. A little history. The league is one of our country's oldest nongovernment organizations, having been formed in 1920 to educate and support women on their newly won right to vote. The league has progressed from educating women to educating all voters and from protecting the right to vote for women to protecting the right to vote for all voters since that time. In communities around Nebraska, the league registers voters, hosts candidate forums, publishes voters' guides, sponsors educational meetings, follows legislative bills, takes positions on them, advocates for or against issues based on thoroughly studied positions, and works very hard to get out the vote. The proposed restriction contained in LB662 is one we must

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speaking against. Those voters most likely to be negatively impacted by passage of LB662 will be college students, other mobile young adults, senior citizens who no longer drive and, therefore, do not have driver's licenses. And I found out just yesterday that my mother's driver's license expired in 2006 and she had no other state-issued ID. And it also will impact low-income adults, no matter their age. In my state legislative district alone, District 28 Senator Avery, roughly 4,100 residents would be adversely affected. And for what purpose? We just don't have a problem that needs to be addressed. In 2006, the National League of Women Voters launched its Public Advocacy for Voter Protection project. The project is designed to fight barriers to voter participation and to ensure election laws and processes are applied in a uniform and nondiscriminatory manner. A specific focus area of PAVP is "to guard against undue restriction on voter registration." The language of this bill directly conflicts with Article 1, Section 22 of the Nebraska Constitution, which states, "All elections shall be free; and there shall be no hindrance or impediment to the right of a qualified voter to exercise the elective franchise." Requiring state-issued ID to vote when it does not address a problem that exists is an impediment and a hindrance to the right of qualified voters to cast a ballot. I strongly urge the committee to kill this bill. Thank you. [LB662]

SENATOR AVERY: Thank you, Ms. Miller. Questions from the committee? Don't see any. [LB662]

SHERRY MILLER: Okay, I'll go. [LB662]

SENATOR AVERY: Thank you for your testimony, and you can get to Lincoln High. [LB662]

SHERRY MILLER: Yeah, get to Lincoln High and pick up those kids. [LB662]

SENATOR AVERY: Oh, wait. We have a question. [LB662]

SENATOR KARPISEK: I just want to say a real quick comment. Thank you for being here. [LB662]

SHERRY MILLER: Yes. [LB662]

SENATOR KARPISEK: And I've had quite a few bills that dealt with the election law and trying to do things. And I was always told there was nothing that...that we didn't have a problem. So I just want to thank you for bringing that up again. [LB662]

SHERRY MILLER: Again? Okay, I can do that. [LB662]

SENATOR KARPISEK: Thank you. [LB662]

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SHERRY MILLER: Thank you. [LB662]

SENATOR AVERY: Additional opponent testimony? Welcome. [LB662]

BEATTY BRASCH: (Exhibit 9) Thank you. My name is Beatty Brasch, B-e-a-t-t-y B-r-a-s-c-h. I am presently the director of the Center for People in Need in Lincoln, Nebraska. Chairman Avery and members of the Government, Military and Veterans Affairs Committee, on behalf of the Center in Need and in my past experience as a Lancaster County Election Commissioner, I'm here today in opposition of LB662, a bill which would have a detrimental impact on the voting ability of many of the people that the Center for People in Need serves. From 1983 through 1987 I served as the Lancaster County Election Commissioner and was deputy election commissioner for seven years prior to that. During this time, the election office installed new voter tabulation software and initiated the first statistical analysis of voting trends. In my 11 years as election commissioner and deputy, I found only two cases of which could be considered voter fraud, neither of which would have been prevented by LB662. The first time, a man was committing bigamy and was attempting to keep his second wife from knowing his situation by voting in person. And voting in person and absentee is what he did. The second was a woman who filled only out only half of her ballot and after realizing her error got another ballot and filled that one out. In each instance, the police were called. And in the first case, the man went to jail, immediately, by the way. So there is consequences, serious consequences if this happens. With there being little evidence of actual voter fraud in Nebraska, it is important to examine the disproportionate impact LB662 would have on low-income members of the state. In a survey of 2,089 low-income residents taken during our Thanksgiving food distribution this past November, only 74 percent of registered voters stated that their address on their ID was current, meaning if a low-income individual happened to be one of the several thousand people estimated to be impacted, one out of four would be turned away under this new law. As only 52 percent of those with incomes below \$500...as only 52 percent of those with low income of \$500 per month had the current address on their state-issued ID. Actually 25 percent of our families live on less than \$500 a month. So any cost, obviously, is very detrimental. Taken alone, the previous information could cause reconsideration of this bill even before the challenges with practical implementation are challenged. However, without proper funding allocations in the bill to education...to educating the general population about any change in voting laws. It became very likely that people will be turned away from voting, creating an even higher likelihood of disenfranchisement...anyhow. Consider that 75.8 percent of registered voters who completed our Thanksgiving survey did not know where they could receive a state identification card even though this information is listed on-line. This is not a willful ignorance towards updating one's ID by these citizens. Many low-income people simply do not have the means to update their information. In every age demographic examined, over 50 percent of the respondents said they could not afford the new ID. The impact on young voters is even worse, with 67 percent of those ages 20 to 29

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responding they could not afford to update their ID. Furthermore, many of the people we see cannot afford automobiles for transportation, leaving them with little reason to update their ID. Mobility also plays a role in the low number of current address IDs. Forty-three percent of the registered voters we surveyed had a disability that affected their ability to work. When you factor in that nearly half of the low-income voters we examined have potential mobility issues, it becomes clear that forcing those who are expecting...experiencing disabilities and monetary issues to go to the election office to update an ID they rarely use creates a situation with far more electoral integrity concerns than the same status quo. Worse, as LB662 is written, there is no funding mechanism to contact any of these people and inform them that the IDs are necessary or how to get them. It is not enough to assume that having these stories in the news or new instructions posted on-line will suffice, as 49 percent of the registered voters we surveyed did not have Internet in their homes. If voter fraud were as prevalent as poverty and hunger in our community, I would support the legislation. However, LB662 stands to disenfranchise voters to fight what I feel is a nonproblem in Nebraska. Thank you for your consideration. [LB662]

SENATOR AVERY: Thank you, Ms. Brasch. Questions from the committee? Thank you for your testimony. [LB662]

BEATTY BRASCH: Thank you. [LB662]

SENATOR AVERY: And thank you for the work you do at the center. [LB662]

BEATTY BRASCH: Thanks. [LB662]

SENATOR AVERY: Additional opponent testimony? We're on LB662. [LB662]

ALAN POTASH: Good afternoon. Alan Potash, A-l-a-n P-o-t-a-s-h, I'm the regional director for the Anti-Defamation League. ADL is a hundred-year-old civil rights and human relations organization with a mission to secure fair treatment for all. I am testifying today in opposition to LB662. Several of my points have already been made by others so I'll keep it short and, hopefully, you'll get out of here before 6:00. I just want to address that there are other obstacles in obtaining a government-issued ID, such as travel for those who live a distance away from a facility to obtain the documents, the possibility of taking off time of work. it also impacts low-income families and individuals. finding transportation for those who don't have vehicles to travel to those destinations. And this just adds to the burden for an individual who really wants to exercise the right to vote. In short, I believe that it's wrong to challenge an individual to have to pay in order to register and to vote. So this is why I'm opposing LB662. I thank you for your time. I thank you for your service to Nebraska. Have a good day. [LB662]

SENATOR AVERY: Thank you. Questions from the committee? [LB662]

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ALAN POTASH: It's good to be short. [LB662]

SENATOR AVERY: Okay. Thank you. Welcome. [LB662]

REBECCA GONZALES: (Exhibit 10) Chairman Avery, committee members, my name is Rebecca Gonzales, R-e-b-e-c-c-a G-o-n-z-a-l-e-s. And I'm with Nebraska Appleseed Center for Law in the Public Interest. Today I'd like to testify in opposition to LB662. Voting is a most fundamental American right. And maintaining the integrity of our election process is an important part of our democracy. As guardians of our democratic process, legislators must constantly balance the burdens imposed on the electorate's access to the vote against protecting the integrity of the electoral process. While we are supportive of seeking ways to improve the accuracy of the voter roles, we believe the burden this bill would impose on the voter is a serious concern that should not go forward and that, in fact, the bill may worsen what it seeks to improve. LB662 narrows the documentation allowed for verifying the address of an already-registered voter. It requires registered voters to show a government-issued photo identification to verify their address if they go to the poll after election officials receive information that the voter's address may have changed. Our current and federal guidelines allow the use of utility bills, bank statements, government checks, paychecks dated within 60 days prior to the presentation as a form of identification in addition to government ID. This is less burdensome, accomplishes the same goal, and may actually allow for more up-to-date documentation of the voter's address. This overly onerous voter identification requirement is an attempt to prevent voters from voting at the wrong poll or using the wrong ballot. However, a voter can move and not update their voter registration or their driver's licenses. Voters can show a Nebraska driver's license and there is no way for that poll worker to verify that the address on the license is, indeed, where the voter currently lives. In addition, students can hold a driver's license with their parents' address while living and legally voting in the precinct where they go to school. LB662 is also an attempt to increase the accuracy of the voter register. But only those who show up to the poll after the election officials have been notified of a potential move will be required to show identification, potentially far less than the 116,000 the Secretary of State states are currently on the inactive roles. This will do little to help clean up the voter register. LB662 offers little protection to the security of our election system while creating a heavy burden on voters and may actually impede the rights of qualified voters, a long held Nebraska value and one enshrined in our state constitution. This would put a greater burden on our already overburdened election workers and undermine our democracy by creating barriers to voting with little benefit to the integrity of our election system. I urge you to indefinitely postpone LB662. [LB662]

SENATOR AVERY: Thank you for your testimony. [LB662]

REBECCA GONZALES: Sure. [LB662]

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SENATOR AVERY: Additional questions from the committee? I don't see any. Thank you. [LB662]

REBECCA GONZALES: Thank you. [LB662]

SENATOR AVERY: We're still on opponent testimony. Welcome. [LB662]

AMY MILLER: (Exhibit 11) Good afternoon, members of the committee. My name is Amy Miller, it's A-m-y M-i-l-l-e-r. I'm legal director for ACLU Nebraska. This is the third year that you have patiently sat through testimony about this very contentious, very politicized issue. I'm only going to make two points because many of you have had to hear these same arguments for repeated years. They are dry, boring points from a lawyer, and they will refer to cases. Luckily, it's all in front of the testimony that you've got in front of you. Point number one: The right to vote as a constitutional vote...as a constitutional right is protected by a high wall. Imposing a voter ID of any sort, on even a small bandwidth of voters, has to have a documented record of voter fraud. And for three years in a row--some years very, very contentious years--this year with a more centrist approach, much quieter hearing, there has been no record of voter fraud. This actually makes it an easy one for the committee. It's a nonstarter. Nebraska can't impose any sort of burdens on that high wall of protection for voting rights unless you have proof that there's been voter fraud. Senator Krist mentioned in his opening comments, if there is voter fraud, I don't know if there is any found in Nebraska. With no record, there can be no sort of imposition on this voting right. Point number two: And this one, at least, gets to take you through a short geographical and historical tour of Nebraska. This bill conflates where you get your mail with where you are legally domiciled. And our cases from the Nebraska Supreme Court extending back well over 120 years make it very clear that where I get my mail has nothing to do with my legal residency. I want to point to you, starting on page 2, the Nebraska State Statute 32-116 defines what residence is. And then the Nebraska Supreme Courts had to look at this in a number of different contexts, in voter cases where someone lost by that single vote. And there's a challenge as to whether or not the voter is properly domiciled. There have been cases involving candidates who were running out of an area that maybe they didn't spend a lot of time in, that they had two homes. So I just want to point out to you that, repeatedly, the Nebraska Supreme Court has said my residence, my domicile for the purposes of voting, is where I intend it to be. Now there does have to be some actual connection. I have to have some physical connection to that place. But look, for example, at the bottom of page 2. Edward Meyers was living on a ranch in Arthur County, started to have some failing health, and in the late 1930s moves to Omaha where he can get some help. He lives in Omaha for eight or nine years, never once returning physically to Arthur County. Nebraska Supreme Court ruling, he still was connected to Arthur County, he still owned property there, he still hoped that if his health permitted he would return there. That was his domicile regardless of the fact that

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if you had sent him a postcard, it may not have gotten to him. And he would have been, under this bill, not allowed to vote. On page 3, I also give you one of the few cases that I've won. It is embarrassing to admit this in public, but I don't win all my cases. I did win the case for Earleen and Justin Jensen in front of the Nebraska Supreme Court. They lived in the tiny village of Royal, population 75 people at the time that I was representing them. Justin lived in town, and as an adult, brittle diabetic. He often would have seizures or coma problems that his mom would help him out with. So Earleen is married and lives on a farm outside of Royal, across the county line. She has property there, she spends most of her time there with her husband. But she also owns a home in Royal. Now not much of a home, it did not have interior plumbing. She, whenever she had a nature call's moment, would have to go across the street to the public conveniences where she would use an outhouse that was attached to her home. In a hotly contested election in Royal, the incumbent lost by one vote. And he brought a challenge saying, I don't think Justin and Earleen actually are considered residents. They spend an awful lot of time back on the farm that has all the modern conveniences. The Nebraska Supreme Court held unanimously, with very little questioning of the ACLU attorney during oral argument, Justin and Earleen are domiciled where they say. They may spend a lot of time back on the farm due to health concerns. But they are, in fact, domiciled where they say. Finally, I want to draw your attention to the remaining two cases. They are Joy Craven who actually left Mason City, Nebraska, for cancer treatments, moved to Montana where her daughter was. She had a post office box, a bank account, her vehicle was registered there, and she even had a driver's license from Montana. But she was considered to be a resident of Nebraska, of Mason City, for the purposes of her domicile. The fact is that if we end up with a voter ID fraud problem and there is a bill in the future, you could start contemplating how you're also going to reconcile these long line of cases that define your domicile, your residence, as to your intention. And that your mail and where your mail goes is not the same as your intention. You don't even have to get to this long, geographic history list of Nebraska Supreme Court cases. Because there's no problem, therefore, there can be no solution. It's not just the ACLU's opinion, it is the rulings of the courts repeatedly. You will see that the Nebraska or that the Pennsylvania Supreme Court just struck down a voter ID law there in--excuse me, not the Pennsylvania Supreme Court--the trial court in Pennsylvania because they also had no record of fraud. Thank you very much for your consideration for the year three in a row. [LB662]

SENATOR AVERY: Thank you, Ms. Miller. Questions from the committee? We just don't have lawyers up here. [LB662]

SENATOR MURANTE: That's too bad for us. [LB662]

AMY MILLER: I wouldn't want to have to speak to lawyers any longer than I'd have to either. [LB662]

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SENATOR AVERY: Thank you for your testimony. [LB662]

AMY MILLER: Thank you. [LB662]

SENATOR AVERY: Any other opponent testimony? How many more wish to testify on this bill? Raise your hands, please. Mr. Bennett (phonetic). Okay. Proceed, sir. [LB662]

GAVIN GEIS: Chairman Avery, members of the Government Committee, my name is Gavin Geis, G-a-v-i-n G-e-i-s. And I'm the executive director of Common Cause Nebraska. We oppose LB662 for many of the reasons that have already been mentioned here today. And I won't belabor many of those points. But one thing I think needs to be touched on a little bit more and that Ms. Miller touched on a bit, is that when we're talking about a broad constitutional issue like this, we have to be very careful when we're talking about imposing a burden on that right. I venture to say that everyone in this room and everyone in the committee has the same respect for the right to vote. In fact, a lot of the voter ID discussion comes from that very place. Those in favor of voter ID see the vote as under attack and that it requires protection. Those of us who oppose ID see the greater concern is disenfranchising voters through an unnecessary ID requirement. But no matter which side you fall on, the right to vote is fundamental. And if that's true, then when we're talking about burdening a fundamental constitutional right, we have to be skeptical. Perhaps even more so when that burden falls on a limited number of Nebraskans. An ID is a burden. I know that part of this discussion is how much of a burden it is. But any time you put something between a voter and the ballot, that requirement is a hurdle. In Nebraska, there is no guarantee to a state ID. While there's a guarantee of the right to vote, both state and federally, that right doesn't exist for IDs. Additionally, when someone seeks an ID, you have to present at least one form of other identification, which for many boils down to a birth certificate, a certified birth certificate. Obtaining that document isn't necessarily a simple process. And it's its own set of government agencies and filling out forms. All that to say that the act of getting an ID isn't straightforward for everyone. Although some of us, many of us...myself, I've had an ID in Nebraska since I had a provisional license to drive at 14. Not every single Nebraskan falls under those criteria. And there's a variety of circumstances and life choices that have led them to different places. But we shouldn't consider all IDs to be a simple process. When we take that into consideration with the other issues that have been mentioned today, the lack of evidence of fraud, the fact that these voters won't be notified, the fact that there are already penalties for this very crime, we think that a voter ID is simply an unjustified burden on the right to vote. There are many great voting bills that have been introduced this session. We heard about LB661 before, and LB746, which will help voters who are moving between counties. Voter ID, instead, restricts the ability of voters to get to the polls, where these other bills help citizens get there and increase turnout. In short, I think we can all agree that the right to vote is fundamental. And without it, we couldn't have a functioning democracy. But given all of the issues surrounding voter ID, the burden of an ID requirement is simply unjustified. Thank you.

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[LB662]

SENATOR AVERY: Thank you, Mr. Geis. Questions? Senator Scheer. [LB662]

SENATOR SCHEER: I don't know why I'm asking you this, but I just thought...you talk about constitutionality. [LB662]

GAVIN GEIS: Uh-huh. [LB662]

SENATOR SCHEER: We go through a census every ten years. And we do redistricting both from a federal and a state perspective based on voter inhabitants, locations where they live.... [LB662]

GAVIN GEIS: Uh-huh. [LB662]

SENATOR SCHEER: ...populations. Based on this bill, the person has knowingly made a request that we are changing locations. If they change a location, if they move from Lincoln to Omaha. [LB662]

GAVIN GEIS: Uh-huh. [LB662]

SENATOR SCHEER: ...and they are then...and they've made that request to legally do that and they come back to vote in Lincoln, is that not then, essentially, unconstitutional because we have a variation in population that is not correct? [LB662]

GAVIN GEIS: I think that's an issue that Adam Morfeld with Nebraska Civic Reform mentioned a little bit. [LB662]

SENATOR SCHEER: Well, he's not here, so I'm asking you. [LB662]

GAVIN GEIS: What I'm going to say is that it's a little unclear as to who exactly falls on this list. There is discussion about the fact that there are people who get on that list without directly, themselves, putting themselves on that list. But at the same time, I think I have to go back to the original point that anytime we put a burden on someone's ability to vote, whether they put themselves on that list, whether they were put on that list by an outside entity, we have to be skeptical of that. And the problem this is looking to solve, as many have said, just isn't great enough to overcome that high constitutional wall that was put in place on purpose. [LB662]

SENATOR SCHEER: But do you see my point that someone...we specifically separate the population into confined districts based on numbers? [LB662]

GAVIN GEIS: Uh-huh. [LB662]

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SENATOR SCHEER: And if we are allowing people to shift back and forth in those different areas to vote to elect those representatives, aren't we really circumventing that basic principle? [LB662]

GAVIN GEIS: That feels like a wholly separate issue that should be talked about, perhaps. [LB662]

SENATOR SCHEER: Well, I don't know. Like I said, I don't know why I'm asking. It just came up. [LB662]

GAVIN GEIS: Yeah. And I think that could exist completely outside of this discussion. We're talking about two different constitutional provisions. One, polling the people and the populations of the states. And the other, an individual right to vote. [LB662]

SENATOR SCHEER: Well, I...yes and no, because...and I am not talking about all of those. I was specific in those that made the request that they were moving. [LB662]

GAVIN GEIS: Uh-huh. [LB662]

SENATOR SCHEER: And so they have started that process. From a simplistic standpoint, I think we all as citizens and having the ability to vote, also have certain responsibilities we have to uphold. [LB662]

GAVIN GEIS: Uh-huh. [LB662]

SENATOR SCHEER: And if one of those is maintaining a current address in the location where we are voting, I don't know that that is asking too much of a citizen, nor is that an undue, harsh requirement for someone to follow preset rules that we all know when we register to vote, if nothing else, when we turn 18. [LB662]

GAVIN GEIS: I think my point to that is that the right to vote is not contingent on purpose. There's nothing in the constitution that says that the government can restrict how someone earns the right to vote. We don't earn that. We don't do anything in our daily lives that means we get that, it's just being a U.S. citizen. And when we start talking about ways, even if they're small, to restrict the number of people that can vote or say that this demographic hasn't worked hard enough or hasn't been responsible enough to vote, I think that's a dangerous road to walk. We shouldn't be making those decisions. The point of voting is so that democracy...so that we can have an electorate that is representative. And an individual's responsibility shouldn't factor in. [LB662]

SENATOR SCHEER: But so when you register to vote... [LB662]

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GAVIN GEIS: Uh-huh. [LB662]

SENATOR SCHEER: ...you are...there are more than one thing that is required in order to do that. It is not enough that you are simply just 18 to registered to vote. There are other requirements, both from a state and a federal perspective... [LB662]

GAVIN GEIS: Uh-huh. [LB662]

SENATOR SCHEER: ...that you have to uphold to when you do that. [LB662]

GAVIN GEIS: Uh-huh. [LB662]

SENATOR SCHEER: And this is to me, making sure that your address is correct is, simplistically, is an extension of that. [LB662]

GAVIN GEIS: Uh-huh. I think at the end of the day, you and I are just going to come out on different sides of this. [LB662]

SENATOR SCHEER: Maybe. But thank you for putting up with me. [LB662]

GAVIN GEIS: Yes. Yeah, no. Happy. [LB662]

SENATOR AVERY: Anyone else want to get in on this? Senator Murante. [LB662]

SENATOR MURANTE: My question is, you made a pretty sweeping statement and you said it a couple of times. Anytime we put a burden on someone's ability to vote, we ought to be skeptical and that it is...we run into the situation where we might have constitutional issues. Well, of course, as we've stated a number of times, Secretary of State, we already have voter identification in Nebraska in various forms. Is it your contention that the laws we have right now are unconstitutional? [LB662]

GAVIN GEIS: No. I mean, there are, I think, there has to be room for those sorts of things and there has to be room for some sorts of registration. [LB662]

SENATOR MURANTE: So why is a bank statement perfectly permissible... [LB662]

GAVIN GEIS: Uh-huh. [LB662]

SENATOR MURANTE: ...and a government-issued ID with the understanding if you don't have one, you can vote provisionally. And if you don't want to vote provisionally, you can vote early and safeguard after safeguard after safeguard. That is not just unconstitutional... [LB662]

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GAVIN GEIS: Uh-huh. [LB662]

SENATOR MURANTE: ...but a crime against humanity that has been talked about today. [LB662]

GAVIN GEIS: Crime against humanity? [LB662]

SENATOR MURANTE: Uh-huh. [LB662]

GAVIN GEIS: I think for many of the reasons that people have already mentioned today. The fact that this is a bill that's specifically aimed at preventing voter fraud. It's not aimed at people registering and saying, I want to vote. It's not aimed at getting a tabulation of who wants to vote in the state. It's saying there is voter fraud and we need to protect against that. The evidence simply isn't there for that fact. [LB662]

SENATOR MURANTE: But we...that's not my question. My question is, we have voter identification now... [LB662]

GAVIN GEIS: Uh-huh. [LB662]

SENATOR MURANTE: ...which apparently you don't have any problem with. [LB662]

GAVIN GEIS: And when you say voter identification now, could you clarify what you mean by that? [LB662]

SENATOR MURANTE: Sure. A person who registers to vote after January 1, 2003, who was not previously registered to vote shall present a photographic identification which is current and valid or a copy of a utility bill, bank statement, government check, paycheck, or other government document which is dated within the 60 days immediately prior to...etcetera, etcetera, etcetera. [LB662]

GAVIN GEIS: Uh-huh. [LB662]

SENATOR MURANTE: This has been law in the state of Nebraska for as long as I've been following it. So we have had to do this for a very long time. [LB662]

GAVIN GEIS: Uh-huh. [LB662]

SENATOR MURANTE: And I haven't heard any objections. As far as I know, nobody has filed any constitutional lawsuits about it so far. So I'm having a tough time understanding how one is right as rain and the other is, obviously, voter suppression. [LB662]

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GAVIN GEIS: Uh-huh. I don't think I ever said voter suppression while I was testifying, so I want to clarify that. [LB662]

SENATOR MURANTE: Possibly constitutionally "infirm" then. [LB662]

GAVIN GEIS: Right, yes. [LB662]

SENATOR MURANTE: Okay. [LB662]

GAVIN GEIS: I think the difference is the requirement to obtain an ID. As some has mentioned that it could be a poll tax on voters. Also individuals having trouble paying for an ID. I think those are things we have to genuinely think about. We can't poo-poo the notion that there are working poor in Nebraska that are going to have a hard time getting an ID. But they can bring in mail to show that that's where they live. And we have, you know, we should take students seriously. They're a demographic in Nebraska that we want to remain in Nebraska. So those two groups aren't two that we should say, well, get it together. Get down and pay for this. Get down and make sure you always change your address. We should take them seriously, and I think that there is a risk when we put a voter ID in place to those groups. [LB662]

SENATOR MURANTE: Okay. I'm not going to belabor the point. [LB662]

GAVIN GEIS: Okay. [LB662]

SENATOR MURANTE: I think I made the point sufficiently. [LB662]

SENATOR AVERY: Senator Garrett. [LB662]

SENATOR GARRETT: Thank you, Senator Avery. Thank you for your testimony today. I hear many folks up here testifying that there's no evidence of voter fraud. I think we're all of pure heart here. I know I am a proponent of voter ID. And believe me, in my heart, I do not want to prevent anyone from voting. It is a fundamental right and one that we need to make sure that is protected. However, how confident are you in that we have mechanisms in place to detect voter fraud? I mean, the case that was given earlier about the guy who was a bigamist and the case where the lady made a mistake and voted for part of the ballot and went back and got a second ballot. You know, those are pretty obvious. But how confident are you in that we've got mechanisms in place to detect voter fraud when you hear that elections are sometimes tied or won by one single vote or ten votes? You know, voter fraud can have a...determine the outcome of an election. And I just, in my heart--and I guess I'm new to this--I'm not confident that we have mechanisms in place to detect voter fraud. And with that statement, let me give you a hypothetical. I'm sitting here thinking, if we had a system in place where somebody could register to vote at the actual ballot box on the day of election and they

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had to sign their name that I'm "Joe Bagodonuts" and I live at this address and we use a biometric tool like a thumbprint--biometrics is a great and wonderful tool--and let them vote on that spot, would that take care of your requirement about being an undue burden for having a photo ID? [LB662]

SENATOR MURANTE: It's nice having an intelligence officer (inaudible). [LB662]

SENATOR GARRETT: My background is in intelligence. And we used biometrics extensively in Iraq and Afghanistan to make sure people who say they are somebody are, in fact... [LB662]

GAVIN GEIS: Right. I think you would probably run into a whole other host of issues when you went into biometrics. [LB662]

SENATOR GARRETT: But I know how easy... [LB662]

GAVIN GEIS: But I mean, in...I think it would handle some issues and it would open others. [LB662]

SENATOR GARRETT: I know how easy it is to fake a driver's license... [LB662]

GAVIN GEIS: Uh-huh. [LB662]

SENATOR GARRETT: ...or an ID. I mean, there are many young people in here or people who were once young that probably had fake IDs so they could drink. I don't want to make any accusations there. But, you know, I used to check IDs, and I used to see that kind of thing all the time. So it's easy to fraudulently produce an ID card. [LB662]

GAVIN GEIS: Uh-huh. [LB662]

SENATOR GARRETT: And so...but I'm just...you know, we want to protect the fundamental right of the people to vote. We don't want to hinder anyone from voting. [LB662]

GAVIN GEIS: Uh-huh. [LB662]

SENATOR GARRETT: So if we simplified that process, that identification process... [LB662]

GAVIN GEIS: Uh-huh. [LB662]

SENATOR GARRETT: ...what would you think about that? [LB662]

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GAVIN GEIS: I think that I honestly can't give you an answer to that today. I don't know how that system would look. I don't know how it would be implemented. And like I said, I think there would be a whole other host of privacy issues that people would have in coming into that. But I think it's a wholly different system and it can't be discussed on the merits of this sort of legislation. [LB662]

SENATOR GARRETT: Well, the privacy thing? Having an ID card... [LB662]

GAVIN GEIS: Uh-huh. [LB662]

SENATOR GARRETT: ...a state-issued ID card... [LB662]

GAVIN GEIS: Uh-huh. [LB662]

SENATOR GARRETT: ...you know, that... [LB662]

GAVIN GEIS: I mean, let me address some of your other points, if you don't mind. [LB662]

SENATOR GARRETT: Okay. [LB662]

GAVIN GEIS: I genuinely know that this committee is not looking to disenfranchise anybody. Like I said, I think that everybody is coming from the same perspective, that the right to vote is important and that it needs to be something we hold in high esteem. As to whether or not we have mechanisms in place that can catch these things, I think first point to that is I just want...I think many of us would like to see more research on this issue that simply isn't there. There's not research showing that it's actually occurring. Of course, we look at that from different sides. In some of our minds, we say, oh, that means that it could be occurring anywhere. And in the rest of our minds, we say, well, there's no proof that it happens. But as far as mechanisms in place, I don't know. As far as using a thumbprint, I can't give you an honest answer. I'm sorry. [LB662]

SENATOR GARRETT: Perhaps the best person to answer this might be the Sarpy County Election Commissioner about what mechanisms we have in place for...to detect. Okay, thank you. [LB662]

SENATOR AVERY: He's up next. Senator Scheer. [LB662]

SENATOR SCHEER: Real quickly, thank you. I don't know we all decided to ask you the questions, but you're very nice (inaudible). So thank you very much. [LB662]

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GAVIN GEIS: I was...I'm the fall guy for everybody apparently. That's, I guess, why? Adam's right there. [LB662]

SENATOR AVERY: Well, thank you, Mr. Geis. [LB662]

GAVIN GEIS: Thank you. [LB662]

SENATOR AVERY: Any other opponent testimony before we move to neutral? Okay. Neutral testimony? Mr. Bena. [LB662]

WAYNE BENA: I don't know if I want to come up anymore. Good afternoon, Senators. Again, my name is Wayne Bena, W-a-y-n-e B-e-n-a, I'm Sarpy County Election Commissioner. One hundred thousand registered voters, 10 percent are NVRA. I first of all want to apologize to my wife, and here's why. She's become a habit of watching these legislative hearings during the workday as background noise. And when I come home after work and she's been watching, she will say, why do people testify in a neutral capacity take a position? So I'm probably going to hear about it tonight. I debated long and hard about whether or not how if I should or should not testify in regards to this bill. And I'm testifying neutral because I've made it quite clear over the course of my numerous testimony before this committee that I believe that there are public policy decisions that should not involve an election commissioner and that election administration should be more my purview. I don't hold any judgment to any commissioner that has been for or against public policy decisions, it's up to them. Just me, personally, my own personal opinion, I believe public policy is this committee and not my jurisdiction. However, because this is public policy that affects election administration, I believe it's important for you to be able to ask questions of commissioners of how this legislation will affect administration regardless of the way I feel about said legislation. So with that, I'm going to conclude and open it up. I'm here to be available to questions of how this would be implemented. There's been a lot of testimony today about voter fraud. I have strong opinions about voter fraud, you can ask about that. But I will leave it at that in regards to how this legislation was implemented. And I will bare myself before the committee for questions. [LB662]

SENATOR AVERY: All right. Senator Wallman. [LB662]

SENATOR WALLMAN: Senator Chairman Avery, thank you. Thank you for coming down this cold day. [LB662]

WAYNE BENA: Uh-huh. [LB662]

SENATOR WALLMAN: Do you have any idea what this would cost if we put something in place like this? [LB662]

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WAYNE BENA: If...my understanding of this legislation, what it would end up being is if a person is on the NVRA list and they've come to their polling site, they would have to show some type of an identification in order to vote. So in regard to that, that would not necessarily cost anything. Everything is already in place for those voters. The only thing that I would say is, is that it would take...the line would be a little longer while we go through that process. But, again, the polls are open 8:00 a.m. till the last voter leaves, regardless if it's 8:00 p.m. or not, so. [LB662]

SENATOR WALLMAN: But it costs something to get an ID card, doesn't it? [LB662]

WAYNE BENA: I believe so, yes. [LB662]

SENATOR WALLMAN: Yeah. [LB662]

WAYNE BENA: Not in my purview but, yes, it would. [LB662]

SENATOR WALLMAN: Okay. Thank you. [LB662]

SENATOR AVERY: Questions. Senator Bloomfield. [LB662]

SENATOR BLOOMFIELD: Thank you, Senator Avery. There are a couple of us on this committee that are relatively new to when I was here last year. Senator Garrett is brand new. And I wish you would expound a little bit on your ideas on voter fraud, but let's not go for half an hour. [LB662]

WAYNE BENA: Yeah, sure. I said this in the committee testimony in the interim hearings. Voter fraud in various capacities does exist in the state of Nebraska. Whether or not it is the most nefarious thing that you would ever see, you're probably not going to see a whole lot of that. But to me, voter fraud is as simple as a voter voting a ballot that they should not be voting and voting that ballot because they do not live at the address in which they say that they live at. And while in that voter's mind a Presidential vote is a Presidential vote anywhere, if they continue onto that ballot and to a race that is specific to that address and they do not live there, that, to me, is voting a fraudulent ballot. That occurs every day in the state of Nebraska. Now...every day, every election, excuse me. Whether or not you have an election commissioner that detects it, sends it to law enforcement who will then investigate, that investigate is sent to a county attorney that will prosecute, and then prosecute to the extent that that person is punished is in a whole different ball game. And so when I see this legislation here today, while it does prevent the imposter--the person claiming to be someone else because they know they might not live there and they would have to show an ID--what this doesn't protect is the person that has moved, cannot register to vote at their old polling place, goes back to their...their new polling place, excuse me, goes back to their old polling place in which they're still in the book. They are asked to provide an ID and they show an ID because

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they haven't changed their ID. One thing that we've learned is, people don't change their driver's license until they get pulled over and told that they have to. Or, you know, they...it's not something that is done on a regular basis. So for those people, they're going to be able to get an access to their ballot even though they don't live there anymore. However, this legislation would provide me an additional tool to prove to law enforcement that they did something to show affirmatively that they lied about where they live. I explained a case that happened in the 2010 general election. And I'll be very brief about it but if you want to talk more about it, I'll show you all the paperwork regarding it. A woman who lived in Bellevue, Nebraska, moved to Douglas County, tried to register to vote in Douglas County in the period of time where you can't register to vote between the general election and that last 10-day...by mail...it's longer when it's by mail. I believe she tried to mail it in. She got a letter from Douglas County saying you cannot register to vote. It's past the deadline. You can come into the office to register to vote up until this deadline. But we will hold your voter registration until after the election, then we'll process you. The woman went to her old address in Bellevue, the polling site where her Bellevue address was where she did not live anymore, and cast the ballot. After that election, by mere fact of by voting and signing the book, it makes her active in my county again. And when we activated her she was sent...to an active status, she was sent a polling place card again that came back as undeliverable, again, because she did not live there. When we went into the system to go put her in the NVRA status, Douglas County had already taken her record and made her a Douglas County voter because they had held the registration until after the election. Then we saw the paperwork in the system that showed this is what she tried to do. I had her dead to right. Sent it to law enforcement, law enforcement went to investigate. She said that she didn't know that she couldn't do this. She doesn't remember whether or not the poll worker asked her whether or not they could...that whether or not she lived at that address. She didn't remember, you know, anything that went on. And she was pretty much given a stern warning. And county prosecutor isn't going to take a stern warning case. Because of that, I instituted new procedures that I hoped to provide a little more proof that my poll workers do ask the question. One thing that I'm doing in my county is requiring the poll worker to put their initials by their address so that I know if they asked the question. And if we're asking them to ask...if we're asking them to confirm where they live, we have the voter...asking now that the voters put their initials by the address...their address so we know that they were asked the question and they confirmed their address. We used this in the last three small elections that we just held over the course of the last year as a pilot program. And it worked out very well and I'm going to try to implement in this. So that's a solution that I'm just internally doing to try to solve those issues. This legislation provides, at least if they have to show ID, as long as my poll workers are doing it and they do it, then it provides some more evidence. But voter fraud does happen. And, again, whether it's...whether or not it gets prosecuted or even investigated is the true issue. [LB662]

SENATOR BLOOMFIELD: Thank you. [LB662]

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WAYNE BENA: Uh-huh. [LB662]

SENATOR AVERY: What you don't address in your comments, Mr. Bena, the consequences of that vote fraud. Any kind of deliberate voting at a place that's not your legal place to vote, you would classify as fraud. I think you would need to add or ought to add intent before you define fraud. But that's another issue. But the outcome would not have been affected by one voter in all probability, right? [LB662]

WAYNE BENA: What I would say is, is that the lower you go down on the ballot, the more likely that one vote is going to matter. And so it's hard to say whether or not that person...there are people that want to vote for president so they can justify in their mind going to their old polling site. And they maybe just vote for president and that's all they do. But I don't know if they do that. The farther they go down the ballot, the more likely that they're voting in a race they should not be voting. And also, on the flip side, they're not voting in a race where their polling site should be that could have made an affect in that race over there. [LB662]

SENATOR AVERY: Point taken. [LB662]

WAYNE BENA: So...and again, as I pointed out in my testimony, some people might not consider that to be fraud. They consider fraud to be the impersonation. And that the person coming in not living here, registering to vote, voting, and then they never lived here. I just have a different degree in the trenches every day of what fraud consists of. And voting the wrong ballot on purpose, like the situation I told you, is fraud to me. [LB662]

SENATOR AVERY: I understand. Senator Scheer. [LB662]

SENATOR SCHEER: Very quickly, Mr. Bena, and a three-minute answer is fine. But just more for record purposes, the Secretary of State talked about this addressing what they perceive to be the most available form of voter fraud. Your assessment, do you agree or disagree with that? [LB662]

WAYNE BENA: Because there is a higher likelihood that that person does not live at that address anymore and that they will not be showing up at the polling site, those are the most likely people to be...that could be impersonated. I would also contend, though, that anyone who is even an active voter can be impersonated. The only way we're going to catch it is if that person actually comes to the polling site. But because there's a higher likelihood for that person not to show up to the polling site because they probably don't live there is the higher likelihood that someone could be impersonated in that instance. And that's why you will see me again for another bill later on that's talking about all-mail elections and how we handle those voters in NVRA because they don't

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live there anymore and the expense that mailing those ballots to people that don't live there anymore do to the counties, so. [LB662]

SENATOR SCHEER: Okay, thank you. Thank you, Senator. [LB662]

SENATOR AVERY: Any more questions? Thank you, Mr. Bena. Any other neutral testimony? We're on LB662 still. Okay. Senator Krist. [LB662]

SENATOR KRIST: Being here and listening to the debate reminds me that I feel very good about being part of the democratic process, listening to people on both sides talk about the things that they're passionate about. And it's a privilege to hear both sides of the issue. I think our election commissioner and our Secretary of State are very clear that it is possible and it is likely, in certain circumstances, that there is voter fraud. I don't know that this happens all the time. But I believe that one of the things that my son and his friends were outraged at is that they live in an SID and they can't vote for the city of Omaha elections because the city of Omaha controls their life in a lot of ways. And some of them used to live with their parents who still live in the city of Omaha. And one of them in a conversation with me said, you know what? I haven't changed my ID. I think I'll just...and I said, you know what that is? That's voter fraud because it changes the tip in one particular precinct or jurisdiction in an election process. And I would remind this group, on this side of the room there are enough seats to decide an election. I'm proof positive of that, and Senator Lathrop was even closer. So one vote does count. And if we can prevent voter fraud from happening, we should. I think this is a centrist approach. And I ask you to look at the process and...closely. And if it's not the right answer, then create that one, if it's possible. Thank you. [LB662]

SENATOR AVERY: Thank you, Senator. Any more questions for Senator Krist? That ends of the hearing...oh, I got...I had this...I was ready until just then. [LB662]

SENATOR KARPISEK: Until she moved them, right? [LB662]

SENATOR AVERY: (Exhibits 12, 13, 14, 15) Yeah, yeah. We have here some letters of opposition, one from the League of Women Voters of Lincoln-Lancaster; and another from the Lincoln Chapter of Nebraskans for Peace; another from the Center for Rural Affairs; and a final one from the Inclusive Communities, I suppose that is "of Nebraska." Anyway, those are all in opposition to LB662. (See also Exhibit 16) Now we open the hearing on the final bill of today, LB663. [LB662]

SENATOR KRIST: (Exhibit 1) Thank you, Senator Avery and members of the Government, Military and Veterans Affairs Committee. My name is Bob Krist, B-o-b K-r-i-s-t, and this is LB663. LB663 makes two changes to current provisions regarding elections by mail. The first provision expands the number of counties that may request that, as a precinct selection, be conducted via mail. Current statute allow counties with a

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population of less than 10,000 to apply to have certain precincts eliminate the polling site and conduct elections via mail. Any size county may have precincts with a limited number of voters, difficulty with finding Americans with Disabilities Act compliant locations, and longer travel times to the site. This proposal would allow any county to make application to the Secretary of State to designate such areas as by-mail precincts. The second provision expands current special election by-mail provisions to include additional types of elections. Current statute prohibits special elections to be conducted by mail if the issue involves a candidate as opposed to economic or other issues. Typical special elections that involve candidates include recall elections, elections to fill vacancies. LB663 would remove this restriction and allow all special elections to be conducted by mail. Thank you for your time. [LB663]

SENATOR AVERY: I've been waiting for this bill. Thank you. [LB663]

SENATOR KRIST: You're very welcome. [LB663]

SENATOR AVERY: Any questions from the committee? Thank you. Proponent testimony? Welcome again, Mr. Secretary. [LB663]

JOHN GALE: (Exhibits 2, 3, 4, 5) Thank you, Mr. Chairman, members of the committee. I'm John Gale, G-a-l-e, Secretary of State for the state of Nebraska. And I'm appearing here at this time to testify in support of LB663, sponsored by Senator Krist. I have and will provide written testimony which will be much more explanatory than my verbal testimony. And I'll make that available for distribution. And we also have received letters of support from Sherry Schweitzer, Seward County Clerk, and Mary Eickhoff, County Clerk of Richardson County. And I'll provide those for distribution as well. You've heard considerable testimony on various bills today. I know you're...it's been a long afternoon so I'll try to make this as short as possible. We had an election reform task force that this Legislature created back in 2001; we were required to provide a report to the Legislature in 2002. And it was primarily county election officials, state senators, and Secretary of State's Office on that task force. We met regularly. Two of the recommendations were: The current existing law that allowed county election officials to designate rural, small precincts for all-mail balloting to be approved by the Secretary of State. And at that time, it was limited to counties of 7,000 population. The other recommendation was that county election officials be the ones that decide where there are special elections within the county on economic issues, would be either by precinct voting or by all mail-in balloting, with plans submitted to the Secretary of State, and needed to be approved by the Secretary of State. Both were adopted, and both have moved forward. And there was a revision or an amendment to the one dealing with rural...small, rural precincts increasing the county population to 10,000 rather than 7,000. So we've had these laws about ten years. Both have become very, very popular. We have some 61 rural precincts that have been designated for all-mail voting in 11 different counties all, of course, sparsely populated counties. And the people have been

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extraordinarily pleased with that opportunity and the reason is multiple. One is, the counties save money because they don't have to send all their poll workers and their equipment to a facility that may be hardly ADA compliant but that's all that's available. And our law says they must be ADA compliant. And so in some instances in those rural precincts, they actually have to go to a different precinct in order to find an ADA-compliant facility. With the small number of voters in those small, rural precincts, you're spending a lot of money sending the team of election workers, transporting the equipment, setting it up, and providing the operation for the course of the 12-hour period of time for voting when you're going to have a small number of voters. The county election officials have liked the money-saving aspect of it. The rural voters have liked it. Why? Because they don't have a 20-minute drive on rural roads and potentially in bad weather. They don't have to go into a different precinct to find a church or a school that's ADA compliant. And so it gives them a reasonably convenient and accessible opportunity to vote without having to meet all of those challenges that an urban voter doesn't have to face. So the counties win and the voters win. And we've found that that has, in those counties that have it, that have those small rural precincts designated for mail-in voting, that it actually increases the balloting by some 15 percent so that it actually helps those rural voters get a vote cast because they're not stuck on the farm or in their small business in bad weather. In the other bill which has been even more popular, has been the special election bill with all mail-in balloting. Lincoln's going to face that soon, the biggest all-mail balloting in the history of this law. It's been very, very popular. And we haven't been able to figure out why it doesn't extend to candidates as well as economic issues. Right now, it's just levy override or school bonds or sales tax issues. You know, I'm a great proponent of a vibrant democracy. And I think if we allowed candidate elections to also be all mail-in designated elections, you're going to have a significant higher turnout, you're going to have a broader sweep of participation, you're going to have a greater consensus and voice of the people on those candidate issues as we do now on the economic issues. To me, that accomplishes everything. You have a greater voice of the people in voting on those candidate issues. You also have the...I hope and I believe that if you can get people to vote regularly on the local election level where they see the impact of their vote, they're going to be more likely to be regular and frequent voters on the bigger elections, the primaries and the general elections, where they don't feel the immediate impact. So it creates a vibrancy in democracy, it improves turnout, and I think in the long run, it gives the public a greater consensus in participating in candidate elections as well as economic issues. So for those reasons, we support this bill. Thank you. [LB663]

SENATOR AVERY: Thank you, Mr. Secretary. Questions? Senator Murante. [LB663]

SENATOR MURANTE: Thank you once again for coming, Secretary Gale. [LB663]

JOHN GALE: Thank you, Senator. [LB663]

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SENATOR MURANTE: The first question is a logistical one. On by-mail elections when the ballots go out, is the postage to return the ballots to the election office paid or does the voter have to pay for that? [LB663]

JOHN GALE: I'm going to turn...we pay...the counties pay it. Okay. So on the rural precincts, those are paid by the county for the special elections. The political subdivision that's involved, the school division or whatever it might be, paid for the postage. [LB663]

SENATOR MURANTE: Okay. I think this bill is a step in the right direction. We talked about this subject matter in this committee in years past. And I know, I think we've had ACLU in here before and I think Mr. Morfeld has testified on it before about potential constitutional issues. But I'm not going to ask you that because I'm not a constitutional lawyer. I'm going to ask you from the perspective of fairness, is it fair to have a situation where you have one precinct in a county where we are mailing all the registered voters a ballot and paying for their postage to have it sent back to the election office and in another precinct in another county, we are saying we are not going to mail you ballots? You have to go to a polling place that we designate for you if you're going to cast your ballot. Is that a fair process to have for conducting elections? [LB663]

JOHN GALE: Well, I believe it is, Senator. Under the due process clause, you can have reasonable classification to treat people differently. But you have to have reasons, justifiable reasons to treat them differently in different categories. And in this instance, we had a rules and reg hearing and we adopted rules and regs on what constitutes a rural precinct that would qualify. And it comes down to whether or not the county saves money by not having to transport people and equipment for a small precinct. Secondly, it has to do with access and availability of roads. And, for the most part, these rural precincts have county roads and they're not highways. They don't have good access, all-weather access. And thirdly, because they're small, rural precincts, they don't necessarily have a church or a school or a government building in the precinct that makes it centrally located and available and accessible in five or ten minutes like you do in an urban area. So, yes, I think that we have classified and identified those rural precinct occupants in a way that's constitutionally sound. [LB663]

SENATOR MURANTE: Okay. And my second question to you would be--or third, I guess, we're at now--would be...I think you accurately mentioned that a lot of issues in this committee--and other committees as well--take a long time before they build up steam. And your Web site for voter registration, I think, is an example of that. Is this part of a...I'm fine with mail elections. I think they make a lot of sense and I think the election commissioners are starting (inaudible) to them. Is this part of the snowball effect that we're kind of getting to that point where we are going to just do statewide all-mail elections? Is that something that you can envision going forward? [LB663]

JOHN GALE: Well, it certainly isn't the intent. [LB663]

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SENATOR MURANTE: Sure. [LB663]

JOHN GALE: That's not our current vision at all. In fact, having had long discussions with the Governor at different times about our election system, we were in agreement that the system that we have that's been modernized and synchronized so well because of the mandates of the Help America Vote Act and the federal money that we have a very, very solid system. And we have very state of the art current technology... [LB663]

SENATOR MURANTE: Uh-huh. [LB663]

JOHN GALE: ...for disabled and visually impaired voters if they want to vote at the precinct, as well as for the immediate, quick, and accurate tabulation of ballots with the equipment that we have. So the system we have is a very sound system and it's probably good for another six or eight years. We're maintaining it and we appreciate the Legislature supporting this with maintenance General Funds on an ongoing basis into the future. The big question comes at that point. Is there going to be a new technology for Internet voting or some other form of access voting which right now doesn't exist that we would move to or would we be moving to all-mail balloting statewide at that point? I think what we're showing is that it's very convenient, people like it, they like mail-in ballot, they like sitting at their dining room table filling it out, mailing it back in. However, there's a higher error rate, anywhere from 2 percent to 4 percent error rate on mail-in ballots because people don't sign the envelope or somebody else signs it for them or they forgot to put the ballot in the right envelope, they send it back in a plain envelope, it doesn't get delivered, they don't mail it back in time, it doesn't arrive in time. There are a lot of...or maybe two ballots, a husband and wife put them in one envelope, both ballots. Well, one of them is going to be voided. So the error rate is so much higher in the mail-in balloting. So there are things that are going to have to be solved if you're going to go to an all-mail in ballot because, right now, our error rate is like .0005 on tabulation of ballots at the current time. But I think it's very possible that we're not going to have the funding again from the federal government to leap to a very expensive, new, biometric technology or whatever kind of ID system people are going to require. If you're going to do Internet voting, you're going to have to have some kind of personal ID. So we may not be able to afford that as a small state. And it may be that we would go to all mail-in ballot. Part of the thing is, are we moving kind of in a synchronized way with the campaigns and the political parties so that they're able to reach those registered voters in a way that gives them, you know, kind of a freedom of speech...of distributing their information to those registered voters? And I think we've continued to be in sync. It's not just mailing ballots to those small, rural precincts, though. We have some 25 percent, 20 percent of people who are voting absentee or early balloting already. And when I became Secretary of State 13 years ago, almost 14 years ago, it was more like 6 percent or 8 percent. So we are moving more and more because of convenience and cost. I think cost per ballot has gone down dramatically in special elections because

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they have a much greater turnout for the cost of mailing ballots. But the turnout is so much greater, the cost per ballot goes down quite a bit. So there are some efficiencies as well as convenience. But that's not our design. Our design now is to maintain what we have and keep it vibrant and keep it accurate, keep it transparent until we get to the point where we say, okay, what's the next step. [LB663]

SENATOR MURANTE: I look forward to that conversation in the years to come. Thank you. [LB663]

JOHN GALE: I hope I'll be here to have that conversation with you. [LB663]

SENATOR AVERY: Senator Scheer. [LB663]

SENATOR SCHEER: Well, Mr. Secretary, call me a skeptic. But I do have concerns with the mail ballots. And it is not in relationship to the fairness to the electorate but the fairness to a candidate or an issue because the law says you can request that you permit it in a precinct if it matches these parameters. But it does not say that all precincts that match that parameter have to have mail-in ballots. And so it is very conceivable that either from an election issue or from a candidate issue, those making that determination--and in a county would be your board of supervisors, perhaps your election official in the larger ones--but somebody is making that determination. And it would be very easy to sway an outcome because those that are mailed in have a much higher rate of return than the voting percentage of those that go to vote at the precincts. It could, technically and very conceivably, make the difference in an election just by those differences in participation via mail versus going into the election precinct. And if...my concern, if we are going to do mail-in ballots that, in any issue, all people that are voting on that issue or those candidates should be all treated equally and the same. That way, it is impossible to sway an election by participation levels. And this isn't hypothetical because I had, after last year's election or a year ago at election, I had several people contact me about a couple of different elections in the state that were both mail-in and normal precinct-type election. And so it does concern me because of the flexibility. As a county, I can have this precinct and that precinct and this one, because those are not normally very good turnouts. But I know if I mail them, I'll get a higher percentage of turnout. And either I want this issue to pass or I want that candidate to win. And so it is conceivable that those elections could be swayed, somewhat easily, by use of that. And so I want you to think about that because I really think as we move forward--and as Senator Murante's comment, are we going that direction--I really think we have to do that in its entirety or be very careful how we would go about allowing those mail-in ballots that are just small portions of a larger ballot question in relationship to either questions ballot issues or candidate issues. It really is a concern, I think. [LB663]

JOHN GALE: May I respond to that? [LB663]

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SENATOR SCHEER: Yes, please. [LB663]

JOHN GALE: Well, first of all, the Legislature was very careful about this because, obviously, we don't want to allow too much unimpaired discretion to concentrate in any county election official or Secretary of State's Office. There needs to be a balance of opinions. And so to get that objectivity and impartiality, the county election official has to provide us with a written report and a sound explanation of why they want to designate particular precincts. So it's not just a letter saying, I want to designate this precinct. [LB663]

SENATOR SCHEER: I understand... [LB663]

JOHN GALE: Yeah, but... [LB663]

SENATOR SCHEER: ...my...excuse me, but I'd like a little interaction. Having used that example, though, it doesn't specify you could have another precinct in that county that is identical but you can choose not to do that there. You don't have to do them in all like instances. You can choose whichever ones you want. Is that not the case? [LB663]

JOHN GALE: Well, it's a greater reality that we will turn them down more. There are counties that would like to virtually go to all... [LB663]

SENATOR SCHEER: Uh-huh. [LB663]

JOHN GALE: ...precincts that are mail-in. Cherry County is virtually, other than Valentine, an all mail-in county. And we have been resisting that based upon the number of voters that are proposed for that precinct, the ADA-accessible site, and the nature of the highways, and their access to an immediate city where there would be an ADA-compliant fire station or school and good roads to get there. We look at all those things. And so we have county election officials regularly proposing precincts that don't match those criteria. And we turn them down. So they're more inclined to recommend more than what we're allowing because we want it limited to those precincts where those rural voters don't have the same access that an urban voter has in bad weather. In a city, you're probably within a half a mile of your voting site. And it's going to be a place that has good parking, and it's going to be paved parking. You have paved streets to get there. You have streetlights. You have public transportation. You get into those small, rural precincts, there's no public transportation. There are no paved roads. There is no ADA-compliant facility. And parking may be highly inadequate for voting. So are you going to demand of them a much higher standard of performance simply because of where they live and the job they have in a rural area than you are going to require of the urban voters? I'm saying, under the constitution there's a distinguishable measure for those people that should have the same access and availability to the right to vote

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as those who live in an urban area. [LB663]

SENATOR SCHEER: And I don't disagree with that, Mr. Secretary. I don't disagree with anything you said. But my point was that in a county, that election official does not have to submit each precinct that fits exactly what you're talking about. They can unilaterally request that this precinct, 1A and 2A, they can send a request to you for those two to be all-mail. But the percentages of...and all the demographics that you talk about, the roads and the inability of really good places to vote, could be identical to 3-1 and 4-1 but for whatever reason, they did not choose those to submit. And so, from my perspective, those four are all, from a technical standpoint, identical. But they've only chosen two of those to request an all-mail ballot. And the other two, they are still going to have a precinct ballot. So that's what I'm getting at. I'm not talking about inside Valentine versus something that's 22 miles south of there. I'm talking about all rural balloting and different precincts that are essentially identical to the parameters that you're talking about. But my concern is, someone unilaterally, subjectively makes the determination which one of those precincts that may be identical are submitted to you and then you either accept them or reject them. But not all like ones need to be submitted to you. So, you know, I think that might be one of the misses that I'm looking at. [LB663]

JOHN GALE: And I see what you're saying. I would disagree with the word "subjective." It's not subjective, it's objective. They have to lay out the maps... [LB663]

SENATOR SCHEER: Uh-huh. [LB663]

JOHN GALE: ...and they have to lay out the explanation of what they're trying to agree to do. I would say that if you, as the Legislature, the public policymaking body here wants to mandate that every precinct of a certain quality be an all mail-in precinct, I think we could all accomplish that. Right now, we have election officials that we have worked with many, many years--there are not term limits on our county election officials and they're an outstanding group of people, very trustworthy and reliable, good Nebraska citizens. We don't mistrust any of them for any kind of chicanery or subterfuge. [LB663]

SENATOR SCHEER: And certainly, I'm not trying to impugn the integrity of those... [LB663]

JOHN GALE: I'm just saying, we're not New York. We're not Louisiana. And so, consequently, we haven't had reason to be highly suspicious of their nominating certain precincts. But you're right. You can either mandate that every county of a certain size and take it away from the discretion of the Secretary of State to review. If you want to, you know, turn that over to the Government Committee and let you make that decision, I mean, that's your choice. I'm just saying it's worked well for ten years and we only have 61 precincts out of 1,450 precincts. So we're talking about 5 percent of precincts that

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have been designated. So this is not something that's being abused wholeheartedly or haphazardly by our county election officials. And we've probably turned down as many as we've approved so it's worked pretty well. [LB663]

SENATOR SCHEER: And what I was talking about was more the potential or the technically available, not that it is being done and not that our election officials are doing so. I'm not trying to make the impression that I think we have election officials out there that are trying to sway elections one direction or another. Absolutely not. I'm just saying that the potential could exist under the current regulations and the rules. And going back to the previous two bills, that's exactly what we talked about. It was the potential of voter fraud. It wasn't that it necessarily was happening, but it was the potential. And I think equally here, that potential does exist. That's really what I was looking at. [LB663]

JOHN GALE: And the only other comment I would have is that we're dealing with small, rural precincts. So the impact of if you increase the vote by 15 percent and you're going from 50 votes to 58 votes, I guess I'm not suspicious of that highly impacting the outcome of any election. But nevertheless, you've had a 15 percent increase to people who then have access to vote who wouldn't have otherwise, so. But I understand your point, Senator, and I appreciate the dialogue. [LB663]

SENATOR SCHEER: And I can appreciate that. And...but to me, the eight votes is the eight votes. If you go talk to the gentleman that ran for the county commissioners or supervisors up in Decatur where it ended up being a tie and they had to flip a coin to determine the winner, those eight votes could have made a substantial difference in that election. So to me, almost the smaller sometimes becomes the larger of the potential, not necessarily the larger districts. [LB663]

JOHN GALE: And the other potential we've seen in every one of these small counties, if any part of the city--most counties have a city--if any part of a city is in that precinct, those urban voters are going to have a higher turnout... [LB663]

SENATOR SCHEER: Sure. [LB663]

JOHN GALE: ...because they have greater access. So we're just trying to give an equal opportunity for access. Whether they all turn out or not, I don't know. But the point of what we're trying to reach here is, those people living in that community are going to have access to that fire station six blocks down the road. The people up here aren't going to get to an ADA facility for 20 minutes on bad roads, why should you let the urban voters prevail on that election as opposed to giving the rural voters an equal opportunity to vote? That's our point. [LB663]

SENATOR SCHEER: Fair enough. And I appreciate your indulgence. [LB663]

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JOHN GALE: Thanks, Senator, mutually. [LB663]

SENATOR AVERY: Thank you. Any more? Senator Bloomfield. [LB663]

SENATOR BLOOMFIELD: Thank you, Senator Avery. Mr. Secretary, this is going to show the age difference between myself and Senator Murante. [LB663]

JOHN GALE: But not between you and me, I don't think. [LB663]

SENATOR BLOOMFIELD: I am not a fan of all the elaborate things we go to for making the vote easy for people. I still like going in and casting my ballot on site or explaining why I can't be there that day and getting a absentee ballot. We're doing this mail-in thing to try to help the rural people have equal access. In the election I just came through a year ago, the rural people voted in a greatly higher number than did the people that were in town. They've got access. They're smart enough that if they can't be there that day, they'll go and cast their absentee ballot or they'll request one by mail. I don't know. I think we're doing a lot of fluff here that doesn't need to happen. But I understand where you're coming from and I thank you. [LB663]

JOHN GALE: Thank you, Senator. [LB663]

SENATOR AVERY: Senator Karpisek. [LB663]

SENATOR KARPISEK: Thank you, Senator Avery. Thank you, Secretary. Try to let you off the hot seat. Are you concerned...I'm concerned about voter fraud with mail ballots. Again, not the intentional kind maybe, like we talked about earlier. But let's just say for instance, I am PR for my grandmother. She's 93 years old and in the nursing home. I take care of all of her affairs. I have her sign things to send in. I try to explain them. She's 93, and related to me. She can't really help that. So, you know, I could fill it out, give it to her, she signs it, and away it goes. That's kind of my concern on the mail-in things. A husband and wife do it. I know you need a signature. They sign it. Again, maybe not intentional ballot fraud but, nonetheless, fraud. [LB663]

JOHN GALE: It exists. And we have instances that we've promoted for prosecution. We had a grandmother who signed the ballot envelope for her granddaughter. We've had instances of a daughter whose mother had died, receive the absentee ballot and filled it out and sent it back in because that's what she thought her mother would want. We have ballots showing up at nursing homes for people that are basically Alzheimer or non compos mentis who have family who haven't done anything to change their voter registration what might have been made years before when they were competent. The ballots still come, somebody fills them out. It's not as bad as the old days when the administrator of the nursing home could collect all of the ballots and fill them all out. And that did used to happen so things have gotten better. But you're right. But I don't know if

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the abuse is worse than the voter error. I mean, they're both issues that we talked about earlier, people that don't sign the envelope, they put two ballots into the same envelope, they're...I mean, all of those kinds of things also raise issues as well. I have promoted a bill that Senator Price had introduced that would require these institutions to present a plan to the county election official of how they handle ballots that come into their institution. And then the county election official would develop a plan. We would have to review it. And then, they'd have to report to us at the end of the election how they handled ballots just so we have a sense of whether or not any hospitals, institutions, state institutions, things are being handled correctly because we don't know now. We don't have reports. We don't have an administrator say, this is our plan and this how we did it, so. But that bill hasn't advanced so I don't know. I mean, we're trying to figure out how to attack voter fraud in any possible way we can. For example, because we interact and cross-check with 28 states now, 100 million voters in those...100 million population in those states, we do a lot of (inaudible) of cross-checking and we cross-check, of course, with vital statics. We cross-check with the Crime Commission in terms of whether or not somebody has a recent felony and shouldn't qualify to vote. I mean, there are a lot of qualifications to vote, one of which is, you can't be a felon and been released within two years. So we cross-check against that. We cross-check against both Social Security and driver's license. So we do a lot of cross-checking. But there are still areas like this that are going to become a greater problem in the future because of the baby boomers' age and become residents in these transitional homes, there's going to be even greater opportunity. [LB663]

SENATOR KARPISEK: Or even at home with the... [LB663]

JOHN GALE: Or even at home. [LB663]

SENATOR KARPISEK: Thank you. I appreciate your...at least you know, see that there is a little bit of problem. I agree with Senator Bloomfield. I like to go in and cast my ballot. I do have to wonder about how smart the people are in the district, though, that voted. Just teasing, Senator Bloomfield. It's getting late...we're getting late and we need to have a little humor. [LB663]

SENATOR SCHEER: Are you talking about your district? [LB663]

SENATOR KARPISEK: Yes, my district. Absolutely. [LB663]

SENATOR AVERY: Senator Murante. [LB663]

SENATOR MURANTE: I have one more question, Secretary. Senator Scheer triggered a conversation that we had had on this concept previously. But I don't have any reason to believe that any of the precincts which have been selected to go vote by mail at this point have...there's any wrongdoing going on. But I think there is a practical effect that if

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you happen to be from a county that does this and it has the inflated turnout that we've talked about that comes from having by-mail elections and you're running in a district where...we'll take Senator Davis, for example. He happens to be from the portion of the district that did not have mail-in ballots. His opponent happened to be from the county that did. In the primary, that made an enormous turnout difference. And Senator Davis' primary opponent that took first place and got overwhelming percentages of the vote simply because he happens to be from the county and get a high percentage of the vote because his name ID was so high in that county, in Cherry County. And I get back to the fairness question. Is that fair for Senator Davis who's running for office in a district where just because he happens to be from the western portion of the district that doesn't have all mail-in ballots, to have voter turnout that is 15 percent lower than his opponent who just happens to be born and raised in the county that did? [LB663]

JOHN GALE: Well, Senator, it's true in every election. You can't get around it. You're going to be popular and supported in the county and the city that you come from. And you're going to be less popular and supported in the county that doesn't know you. I mean, I ran into that in my primary race with Tom Osborne. That was a very tough primary race. We all knew how that was going to turn out when Tom got into the race but I won Lincoln County. I beat Tom Osborne in Lincoln County 3 to 2. Why? Because that was my hometown, I'd lived there for 30 years, people knew me and respected me and voted for me. So it makes a difference. Cherry County probably would have voted that same way in any event because it was a Lincoln County...Cherry County guy who they were supporting. And so... [LB663]

SENATOR MURANTE: Right. The percentage may have been the same but the voter turnout, the raw number of votes that he got out of the county was inflated because they went vote by mail. You know what I'm saying? So the percentages may be the same in terms of the number of people who are filling in...the percentage of people who are voting for one candidate over another. But simply because of what the Legislature said the voting system should be in that county, the voter...the election results are different. I'm not sure... [LB663]

JOHN GALE: Well, in the primary, I...and we've had several conversations with Senator Davis about it. [LB663]

SENATOR MURANTE: Uh-huh. Uh-huh. [LB663]

JOHN GALE: He feels it made a difference. And it's true that he came up against some counties in his area of the district that didn't have the all mail-in voting because the county election official hadn't proposed them because we're talking about the small, rural precincts. We're not talking about all precincts. Whether he really was impaired or not, I think he was overwhelmed by a county that had more votes anyway and maybe there was a little higher turnout. But he won. He won the general election. So, yeah. I

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mean, we run into...no elections are perfect and you never have perfect advantages in every election. Sometimes you're running uphill and not due to any fault of your own or any choice of your own. But in that particular case, would that have made a difference? It's hard to know when you're just dealing with 61 of these precincts in 11 counties, have you really made a huge difference in outcomes or not? At this point, we're thinking not. It's just the peculiarity and unpredictability of elections that gives you those kinds of skewing. All we're saying is, let's let every county if they have small, rural precincts and they want to save some money if they think...I mean, that's what drives most of these designations is, the county election officials want to save money. And so we're just saying, well, let's go from 10,000, let's let every county do it if they have those same small, rural precincts. They still have to be approved by us. We're going to look for any kind of chicanery or manipulation, if it's there. But all counties would like to save a little money. And I doubt that we're going to end up with hundreds and hundreds designated simply by going to a statewide system. [LB663]

SENATOR MURANTE: Thank you. [LB663]

SENATOR AVERY: Any other questions? Thank you, Mr. Secretary. [LB663]

JOHN GALE: Thank you, Mr. Chairman. Thank you, members of the committee. [LB663]

SENATOR AVERY: Are...we are still on proponents of LB663. Welcome again. [LB663]

ADAM MORFELD: Good afternoon, Chairman Avery and members of the committee. My name is Adam Morfeld, that's A-d-a-m M-o-r-f-e-l-d. I'm the executive director of Nebraskans for Civic Reform. And we are testifying in support of LB663. I won't belabor all the points that have been made. I think the Secretary of State has answered a lot of questions that meshes out a lot of different issues with this. However, I will say that, you know, Senator Murante, we did have the same concern. And I've talked to Senator Davis about that. He has approached us about that issue. We were supportive of legislation that would make all elections vote by mail. We think that that would be the most fair way to do that. One of the states that currently has all vote by mail...I can't remember if it's Oregon or Washington. It's one of the two. They did this incremental thing where each county eventually, once the legislature gave them authority, adopted all vote by mail elections. And then there was one last holdout county. Well, one of the rationales behind the last holdout...behind going all vote by mail statewide and the legislature mandating that entire state to do so, was that it wasn't fair for the folks in that one county where the election commissioner simply just did not want to do that. So in any case, we're in support of this. We believe it does increase turnout. We do believe it increases the accessibility. And we also do believe that it increases the awareness of certain election issues and candidates. So I'd be more than happy to answer any questions. [LB663]

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SENATOR AVERY: Questions? I don't see any... [LB663]

ADAM MORFELD: Thank you. [LB663]

SENATOR AVERY: Mr. Morfeld. Additional proponent testimony, LB663? Welcome back. [LB663]

SANDRA STELLING: Thank you. I'm Sandra Stelling, S-a-n-d-r-a S-t-e-l-l-i-n-g, Jefferson County Clerk, Register of Deeds, Election Commissioner, and chair...cochair of our association's legislative committee. I'm here today to support LB663 to allow all mail-in elections for candidates and issues. I've seen this happen in several counties from the different county clerks, election officials. The voter turnout has been increased. And I think that's what we're here to do, is try to get the voters interested and so they do turn out for this. I do really appreciate your comments on some of this stuff. Some of the races I haven't kept up on. And I do see, Senator Scheer, your opinion on what you brought up of the election commissioner doing it and asking for one precinct and not the other. Hopefully, as an election commissioner I would not try to sway anybody, anywhere. I think that's one thing that has been really instilled in us. We're an election commissioner. We do not say we support this guy. We don't support this guy, this cause, or anything else. And, hopefully, all my colleagues across the state are the same way. So I just ask you to support it. And, there again, it is convenient to fill out that ballot at home. Yes, I still like to go to the polls too. But, yes, I have voted absentee, so. [LB663]

SENATOR AVERY: Thank you, Ms. Stelling. Questions? I don't see any. Thank you. [LB663]

SANDRA STELLING: Thank you. [LB663]

SENATOR AVERY: Any more proponent testimony? [LB663]

WAYNE BENA: Good evening. [LB663]

SENATOR AVERY: Welcome back. [LB663]

WAYNE BENA: Good evening--okay--Senators. My name is Wayne Bena, W-a-y-n-e B-e-n-a, election commissioner for Sarpy County, here to provide testimony in support of LB663. Showing my age, probably, I've been no...it's widely out there that I am in support of all-mail elections, all postal mail elections. Somebody said all-mail elections and a little girl said, can my mommy vote in this election? So I never say all-mail elections anymore. You wanted some humor. All right, so. [LB663]

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SENATOR KARPISEK: Thank you. [LB663]

WAYNE BENA: There are two parts of this bill. The first part in regards to precincts that...allowing all-mail elections. I'm such a fan of this that I will apply every one of my precincts to Secretary Gale to allow all-mail elections in my county. Unfortunately, that will be denied so I won't talk about that portion of it. The second part in regards to opening up special elections to all mail for any...all postal mail elections is something that I support. I was the first election commissioner in Sarpy County that moved to all postal mail elections. And we have seen, while some districts or political subdivisions can be hesitant at first, when they see the actual results or what actually happens during the race, they...I've turned people's minds around. Some voters are hesitant. They like their polling site. But when they realize the convenience, I've turned people around. There will be people that really like going to their polling site. And I don't think that we're ever going to not be able to counteract the people that do want to have that. So the reason why I wanted to talk about this...I have the unique perspective of last year, in a year that I was supposed to have zero elections, I had six due to the various special bond elections in Springfield Platteview, Millard, the OPS elections that I was forced...I was happy to do for...based upon legislative action, as well as a vacancy in a city council race. And what...in two of those elections were...one I held in October and one I held in November. I had...October we had a race to fill a vacancy of a city council race in the city of Bellevue. In that, we had 6,167 registered voters. Nine hundred sixty-seven voters voted in that race for a turnout of 15.68 percent in a race that I would probably say, for those of you here in Sarpy County, that was widely publicized. It was pretty contentious. The mere fact of having the election was a contentious issue. So it wasn't like it was hidden, it was out there. The next month...and that had to be held by...at a polling site as a requirement because it was candidate. So I had no discretion. Then the next month in November, we held an all postal mail election in the Springfield Platteview Community School District in which there were 5,338 registered voters in which 2,524 voted for a 47.2 percent turnout. So similar within a thousand, same number of registered voters, one month apart, one held at a polling site, one held all by postal mail. So you see, there is a...quite a difference in the turnout. There is a senator who is not here that would say if I said it's my job to increase turnout, would have five-minutes of questions for me. And I have come to that conclusion that it is not my job to increase turnout, that's campaigns' jobs to do it. But my job is to provide ballot access. And what more can I do to provide ballot access than to give everyone a ballot in their home so they can do it at any given time? In regards to costs, the election that I held all by postal mail had 11 different precincts. If I would have had to open up 11 different polling sites, the cost of the poll workers alone would have been the cost of what actually I had to charge for the election. The way I figured it, it was between a \$3,000 to \$5,000 cost for just poll workers in that election. I did this entire election by mail, postal mail and for the same cost, \$5,000. So there is a significant cost savings the larger number of precincts there are. But again, overall, the per ballot cost based upon turnout is significantly smaller...the cost. And which we're going to see in

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Lancaster County and the largest all postal mail election held to date. I had the record previously so thanks, Dave Shively. So I'm in very support of opening up all these elections to give me that discretion to do. So thank you very much. [LB663]

SENATOR AVERY: Thank you, sir. Questions? Senator Murante. [LB663]

SENATOR MURANTE: I have just one for you. Do...does Sarpy County have any precincts which fit the statutory definition of rural? And if so, would you apply for those to be mail elections, postal mail elections? [LB663]

WAYNE BENA: With high accuracy, no, none of them would apply. [LB663]

SENATOR MURANTE: None of them would. [LB663]

WAYNE BENA: No. [LB663]

SENATOR MURANTE: Okay. Thank you. [LB663]

WAYNE BENA: On the mere fact we have ADA-compliant polling sites in all of our...there might have been a point before the redistricting process that I might have considered. There were some small ones. But at this point, where we're at, no. [LB663]

SENATOR AVERY: Any more questions? Thank you for coming down. Appreciate your testimony. [LB663]

WAYNE BENA: Looking at your schedule next week, there's nothing. So you have two weeks off from me, so. [LB663]

SENATOR AVERY: Well, we'll fix that. Any other proponent testimony? Any opponent testimony? Neutral testimony? Senator Krist. You waive. [LB663]

SENATOR KRIST: Absolutely. [LB663]

SENATOR AVERY: (Exhibit 6) That was a pretty snappy waive. That ends the...I have a...I have one letter of support from Diane Olmer, the Platte County Election Commissioner, in support of LB663. (See also Exhibit 7) [LB663]